

## EARLHAM COLLEGE

### A Letter in Support of the Employment Non-Discrimination Act (ENDA) of 2009 to Congressman Mike Pence

**Date:** March 3, 2010  
**To:** Congressman Mike Pence  
**From:** Mary Jones and Hannah Hale Leifheit  
**Student Leader for Proposal:** Mary Jones

The Honorable Mike Pence  
United States House of Representatives  
Washington, D.C. 20515

Dear Representative Pence,

I am writing as a concerned citizen to urge you to support the Employment Non-Discrimination Act (ENDA) of 2009 which would provide basic protection against employment discrimination based on an individual's sexual orientation or gender identity. This legislation will increase job security for millions of hardworking Americans and their families in these unstable economic times because their employment would no longer be able to be jeopardized merely by prejudice.

#### State and Company Support

Since the Civil Rights Act of 1964, the United States Congress has been working to protect Americans from discrimination in the workplace and in the past fifty years has passed legislation prohibiting employment discrimination based on an individual's race, color, religion, sex (including pregnancy), age (over 40), national origin, disability, and genetic information<sup>1</sup>. Despite this legacy, however, there is no federal law that protects individuals from employment discrimination based on their sexual orientation or gender identity, including employment termination, promotion denial, and harassment on the job<sup>2</sup>. As a result, according to a national probability sample developed in a study by the University of California, 15% of lesbians and gay men believe that they have been victims of employment discrimination by being fired or denied a promotion because of their sexual orientation<sup>3</sup>. Since there is no federal law against this kind of employment discrimination, these injustices are often completely legal. I say "often" because 29 states and the District of Columbia have taken the initiative and already passed laws prohibiting employment discrimination based on sexual orientation on a state level. Employment discrimination based on gender identity is currently illegal in twelve states and the District of

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<sup>1</sup> "About the EEOC: Overview ." U.S. Equal Employment Opportunity Commission . U.S. Government , Web. 20 Feb 2010. <<http://www.eeoc.gov/eeoc/index.cfm>>.

<sup>2</sup> "HRC Employment Non-Discrimination Act ." Human Rights Campaign. 17/09/2009. Human Rights Campaign , Web. 20 Feb 2010. <[http://www.hrc.org/laws\\_and\\_elections/enda.asp](http://www.hrc.org/laws_and_elections/enda.asp)>.

<sup>3</sup> Lewis, Gregory B. "Representation of Lesbians and Gay Men in Federal State and Local Bureaucracies ." *Journal of Public Administration Research and Theory*. 2010. Oxford Journals , Web. 20 Feb 2010. <<http://jpart.oxfordjournals.org/cgi/content/full/mup030#BIB>>

Columbia<sup>4</sup>. Indiana has neither such laws so gay, lesbian, bi-sexual, and transgender Hoosiers are currently not protected against employment discrimination<sup>5</sup>.

Talking with the Richmond Human Rights Commission, I discovered that there has been at least one local case of employment discrimination based on sexual orientation in the past five years in Wayne County. This may not seem significant but as Director Ron Church pointed out, individuals have little reason to make inquiries when there is no law protecting them against such discrimination on a local, state, or national level<sup>6</sup>. Also, one local case in and of itself represents the many District 6 Hoosiers who are being affected by employment discrimination based on their sexual orientation or gender identity because for every case that is reported there are several more that are not.

Not only is employment discrimination based on an individual's sexual orientation or gender identity unjust, but companies in the United States are discovering that it is not conducive for a productive and healthy work environment and are taking action of their own. As of September 2009, 434 out of the 500 "Fortune 500 Companies" (87%) had corporate policies prohibiting workplace discrimination based on sexual orientation and 41% had similar policies that also address gender identity<sup>7</sup>. Many corporations in the business community would therefore welcome federal legislation that takes similar action. In the words of General Mills Inc., "ENDA is not only the right thing to do, but it is also good for business. We want our employees focused on doing the very best they can at their job"<sup>8</sup>. Ending employment discrimination is therefore beneficial for both individuals and the productivity of the companies they work for, something that many companies operating in the US already understand.

Despite a recent trend of corporations and states adopting their own policies against employment discrimination based on sexual orientation and gender identity, these policies are not universal and therefore do not protect all Americans. The passage of ENDA, however, would provide strong, uniform federal protection against these kinds of workplace discrimination, ensuring coverage for all American workers.

### Importance of Including Gender Identity

In 2007, the House of Representatives passed a version of ENDA, which, as the result of compromising, only covered discrimination based on an individual's sexual orientation and not

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<sup>4</sup> See 2 "HRC Employment Non-Discrimination Act."

<sup>5</sup> "ENDA Introduction Tomorrow: Corporations Agree Fairness is Good Business." *Human Rights Campaign*. 23/06/2009 . Human Rights Campaign , Web. 20 Feb 2010. <<http://www.hrcbackstory.org/2009/06/enda-introduction-tomorrow-corporations-agree-fairness-is-good-business/>>.

<sup>6</sup> Church, Ronald, E-mail informational interview, 18 February 2010

<sup>7</sup> See 2 "HRC Employment Non-Discrimination Act." Church, Ronald, E-mail informational interview, 18 February 2010

<sup>8</sup> See 5 "ENDA Introduction Tomorrow: Corporations Agree Fairness is Good Business."

their gender identity<sup>9</sup>. I would like to emphasize that such a compromise in the 111th Congress is unacceptable because it fails to protect transgender individuals who suffer an extreme amount of discrimination in the workplace. According to six national studies between 1996 and 2006 by the Williams Institute, between 13%-47% of transgender people were denied employment, between 22%-31% reported harassment in the workplace, and 19% were denied promotions based on their gender identity. Due to the difficulty of transgender individuals to obtain, keep, and advance their employment because of legal discrimination, these Americans and their families are particularly vulnerable to poverty. The same studies, for example, found that between 6%-60% of nationally interviewed transgender people were unemployed and between 22%-66% lived with annual incomes of less than \$25,000. Because of the acute employment discrimination facing hardworking transgender Americans, affecting their quality of life, passage of ENDA must address employment discrimination based on gender identity as well as sexual orientation<sup>10</sup>.

### Your Concerns

During the passage of the 2007 version of ENDA by the House of Representatives, you expressed concern regarding the implications the act has on freedom of religion in the workplace, especially for Christians, saying, "Some examples, under ENDA, would mean employees around the country who possess religious beliefs that are opposed to homosexual behavior would be forced, in effect, to lay down their rights and convictions at the door."<sup>11</sup> Under ENDA, employees who hold these beliefs are not asked to abandon them, but to treat their peers with equal dignity and respect, upholding Jesus' core teaching to "love thy neighbor." Also, ENDA protects the employment opportunities of many Christians who are also members of the LGBT community.

### Support ENDA

Legal discrimination based on gender identity and sexual orientation affects the successful employment of all gay, lesbian, bisexual, and transgender individuals trying to make a living in the United States, Indiana, and Wayne County. Although I suspect I will never have to face employment discrimination based on my sexual orientation or gender identity as a straight woman, I cannot say the same for many of my friends. I have two good friends at Earlham College who are both Hoosiers, one from Indianapolis, who is lesbian, and one from Jay County, who is gay. They are both incredibly intelligent, caring, hardworking individuals that will soon be entering the diminished job market upon graduation, and they deserve the same opportunity of finding successful employment that I have. It is for them and the millions of Americans that they represent that I write you this letter and urge you to support the Employment Non-Discrimination

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<sup>9</sup> "Timeline: The Employment Non-Discrimination Act." Human Rights Campaign. 2010. Human Rights Campaign, Web. 25 Feb 2010. <<http://www.hrc.org/issues/workplace/5636.htm>>.

<sup>10</sup> "Employment Non-Discrimination Act (ENDA)." National Gay and Lesbian Task Force. 2008. National Gay and Lesbian Task Force, Web. 21 Feb 2010. <[http://www.thetaskforce.org/issues/nondiscrimination/ENDA\\_main\\_page](http://www.thetaskforce.org/issues/nondiscrimination/ENDA_main_page)> PDF of testimony 09/23/2009 <[http://www.thetaskforce.org/downloads/misc/Task\\_Force\\_Action\\_Fund\\_Testimony\\_6\\_26\\_08\\_FINAL.pdf](http://www.thetaskforce.org/downloads/misc/Task_Force_Action_Fund_Testimony_6_26_08_FINAL.pdf)>

<sup>11</sup> *Pence Says ENDA "Wages War on Freedom of Religion in the Workplace"*. Representative Mike Pence, Web. 21 Feb 2010. <[http://mikepence.house.gov/index.php?option=com\\_content&task=view&id=426&Itemid=65](http://mikepence.house.gov/index.php?option=com_content&task=view&id=426&Itemid=65)>.

Act 2009, which will make it so their opportunities and experiences in the workplace will be dependent on their job performance and nothing else.

I would appreciate it if you would inform me of your action regarding the passage of ENDA.

Sincerely,

Mary Jones  
Richmond, IN

Hannah Hale Leifheit '11