

**Written Testimony of
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For the Senate Committee on Health, Education, Labor and Pensions
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Hearing on "Equality at Work: The Employment Non-Discrimination Act"

Chairman Harkin and other distinguished members of the Senate Committee on Health, Education, Labor and Pensions, we thank you for considering our statement during this hearing on the Employment Non-Discrimination Act (ENDA). The National Association of Social Workers (NASW) supports efforts to end discrimination and harassment in the workplace for lesbian, gay, bisexual and transgender persons.¹

NASW is the largest membership organization of professional social workers in the country, with 145,000 members. NASW works to enhance the professional growth and development of its members, to create and maintain standards for the profession, and to advance sound social policies. Social workers help individuals, families, and communities across the nation to improve their well-being and promote social change to enhance unfavorable living conditions.

Background

During the serious economic down-turn in the United States, the unemployment rate has been decreasing across many socioeconomic groups. One of the hardest hit unemployed groups is the transgender population. Whereas, the general population is only experiencing an unemployment rate of 8.1 percent, the unemployment rate for the transgender population is twice that at 16 percent.² These figures suggest disparaging differences in employment practices in the workforce when comparing hiring policies between heteronormative groups and the transgender population.

Under current federal law the following practices are defined as discriminatory: harassment on the basis of race, color, religion, sex, national origin, disability, genetic information, or age; retaliation against an individual for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices; employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, age, religion, or ethnic group, or individuals with disabilities, or based on myths or assumptions about an individual's genetic information. Yet it is clear that current laws do not protect all prospective, or current employees, equally.

Research demonstrates that lesbian, gay, bisexual, and transgender employees experience harassment, discrimination, and negative employment performance reviews solely due to their sexual orientation and/or gender identity. For example, transgender individuals are reporting

harassment (50 percent), inappropriate release of personal information (48 percent), inappropriate questions (41 percent), denied access to personal facilities (22 percent), and being victims of violence or sexual assault (13 percent) within the work place.³

Currently, there is no federal law protecting individuals from job discrimination based on actual or perceived sexual orientation or gender identity. Twenty-one states and the District of Columbia have passed laws prohibiting employment discrimination based on sexual orientation, and 16 states and the District of Columbia also prohibit discrimination based on gender identity. Many states, corporations, and municipalities have passed laws, regulations, and policy that ban employment discrimination based on sexual orientation and/or gender identity.

Recommendation

ENDA is similar to the Civil Rights Act of 1964, which bans employment discrimination based on race, religion, gender, national origin and color. In addition, the United States Employment Commission (EEOC) ruled that gender identity and expression are protected under the Civil Rights Act of 1964, Title 7.⁴ Gay, lesbian, bisexual, and transgender individuals face alarmingly high rates of employment discrimination. The Employment Non-Discrimination Act will ensure employees are judged on the quality of their work and not on personal identity, which is irrelevant to job performance. It is time for Congress to lead the nation once again in preserving the right of every individual in the United States to contribute to their community while pursuing the American dream without prejudice. ENDA embodies the American philosophy that employment decisions should be centered on a person's qualifications and work ethic, rather than their perceived differences.

NASW strongly urges the Congress to pass the Employment Non-Discrimination Act.

¹ National Association of Social Workers (NASW). (2012). *Lesbian, gay, and bisexual issues and transgender and gender identity issues policy statements*. Social Work Speaks. Washington DC: NASW Press.

² Grant, J. (2011) *Injustice at every turn: A report of the national transgender discrimination survey*. National Gay and Lesbian Task Force. Retrieved June 11, 2012 http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf

³ National Center for Transgender Equality and the National Gay and Lesbian Task Force. (2009, Sept). *National transgender discrimination survey*. Retrieved April 15, 2010, from http://www.thetaskforce.org/downloads/release_materials/tf_enda_fact_sheet.pdf.

⁴ Macy, M. v. Holder, E. (2011/2012). ATF-2011-00751 (EEOC App. 0120120821).