

# TALKING ABOUT



## Inclusive Employment Protections



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## Overview

The vast majority of Americans (89% according to a May 2007 Gallup poll) believe that gay people should be protected from being unfairly fired. However, most Americans don't realize that in most of the U.S., employers are still able to fire people simply for being gay or transgender. Many Americans also don't understand how often gay, lesbian, bisexual and transgender people face unfair work practices, nor do they consider the ways that gay and transgender people must actively hide and lie about who they are to avoid being unjustly fired.

The support for employment protections is clear. Therefore, our discussions should emphasize the need for these protections and how the lack of inclusive workplace protections hurts gay and transgender people.

## Employment Protections Messages

*"What a lot of people don't realize is that right now, it's legal in 30 states to fire someone just because they're gay, and in 37 states if they're transgender. All hardworking Americans should have the chance to earn a living and provide for their families without fear of being unfairly fired for reasons that have nothing to do with their job performance."*

### Emphasize Common Ground

The idea that everyone should be judged solely on their capabilities and job performance is a very strong American value. Very few people believe that it's okay to fire hardworking and high-performing employees just because they're gay.

### 1) Hardworking, high-performing employees shouldn't be fired just because they're gay or transgender.

Americans almost universally believe that workers should be judged by their job performance—and that this principle also applies to gay people in the workplace. This makes it very easy to talk about this issue in a way that resonates with common values. Gay and transgender people can and do lose their jobs just for being gay or transgender—and Americans believe that's wrong.

### 2) Emphasize values like hard work, earning a living, and providing for our families.

LGBT people, like most other Americans, tend to have a patriotic view of work, and are simply seeking the same chance to contribute and provide for themselves and their families. Research shows that messages such as, "If you work hard and do your job, you shouldn't be fired just because you're gay," help people understand the issue. When talking about employment protections, talk about the importance of hard work, productivity, and contributing to the economic health of the nation.

Remember, it's about having the ability to *earn* a living (not about being "entitled" to work). And, it's about work as a way to provide for and be responsible for ourselves and our families.

**3) Make it clear that America (and corporate America) supports employment protections.** Employment protections are a mainstream issue. Since Gallup started measuring public opinion on workplace protections for gay people, support has risen from 56% in the 1970s to 89% today. However, research suggests that some who

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**"It's about protecting hardworking Americans from being unjustly fired."**

### Emphasize common ground

1. "Hardworking, high-performing employees shouldn't be fired just because they're gay or transgender."
2. Emphasize values like hard work, earning a living, and providing for our families.
3. Make it clear that America (and corporate America) supports employment protections.

### Illustrate concrete harms

4. "It's legal in 30 states to fire someone just because they're gay, and in 37 states because they're transgender."
5. Tell vivid stories of how LGBT employees have been hurt.
6. Show the prevalence of unfair employment practices against LGBT people.

support workplace protections mistakenly believe that their friends and neighbors wouldn't be supportive. It's helpful to remind them of the near-universal support for employment protections. In fact, very few issues command this level of public support.

Also, more private corporations are extending employment protections to gay and transgender employees. Of the 519 Fortune 1000 companies surveyed by the Human Rights Campaign, 98% prohibit unfair employment practices for gay employees, and 58% for transgender employees. However, many other businesses that employ millions of Americans don't do the same. Employment protection legislation would bring these remaining businesses, and the government, in line with the successful employment practices of corporate America.

### Illustrate Concrete Harms

Americans simply don't know that it's still legal to unfairly fire LGBT employees. Overcoming this requires a two-pronged approach. First, establish that gay and transgender people aren't protected under the law. Second, share personal stories and offer real-life examples to clearly illustrate the harms that gay and transgender people experience in the workplace.

**4) Talk about how, contrary to popular belief, it's legal in 30 states to fire someone simply because they're gay, and in 37 states because of a person's gender identity.** Explain that across the U.S., companies can and do legally fire gay and transgender people for reasons that have nothing to do with job performance.

**5) Tell vivid stories about how gay and transgender people have been hurt.** Personal stories about the unfair treatment of LGBT employees can dispel

### ABOUT THESE APPROACHES

The *Talking About* series uses two interconnected approaches for discussing LGBT issues. The first approach, **Emphasize Common Ground**, helps reduce the sense of "otherness" that some Americans feel when they think about gay people by focusing on the common values and beliefs that gay and straight Americans share. The second approach, **Illustrate Concrete Harms**, helps people understand and connect with the specific and pervasive injustices that LGBT Americans face.

For additional information, see the *Talking About* document titled **Overall Approaches for LGBT Issues**.

commonly held misperceptions about employment protections. The ACLU report *Working in the Shadows*, available on the ACLU's Web site, contains many short, vivid case studies of workplace harassment and unjust firings of gay and transgender employees.

Help people understand what gay and transgender people face in the workplace. Even simple watercooler conversations about weekend plans or bringing someone to the company picnic can force LGBT people to choose between lying to their colleagues or potentially losing their ability to earn a living, pay the rent, buy groceries, and provide for their families.

**6) Explain the prevalence of unfair employment practices against gay and transgender people.** The Williams Institute at UCLA School of Law recently reported that between 15% to 43% percent of lesbian, gay and bisexual people (or between 2.25 million and 6.5 million Americans) surveyed since the mid-1990s reported experiencing unfair employment practices based on

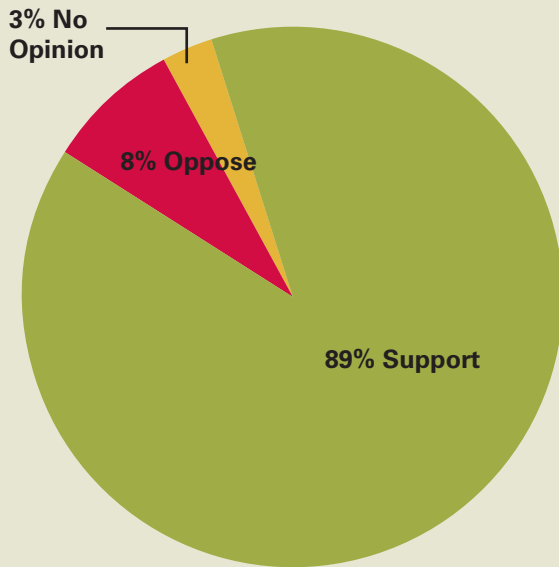
### TALKING ABOUT EMPLOYMENT PROTECTION LEGISLATION

Remind people that this legislation doesn't create brand new laws. It simply makes an adjustment to existing state or federal employment statutes that already protect people from being fired for reasons other than job performance. Remind them that the legislation is a common-sense, incremental solution for protecting hardworking Americans: "This law simply adjusts existing employment law to protect gay and transgender people, just as it currently protects people based on race, sex, religion, national origin, and disability."

Keep messaging about any "religious exemption" simple and brief. The federal ENDA (and some state legislation) has a clause that safeguards religious liberty even as it protects gay and transgender people in the workplace. One sentence explaining that the legislation exempts churches and other religious organizations will help assuage people's concerns. However, keep the overall discussion focused on protecting hardworking Americans from being unfairly fired.

Emphasize the limited scope of the legislation. Most legislation in this area expressly prohibits quotas or other employment practices that could result in preferential treatment based on orientation or gender identity. Remind people of this when necessary.

## Support for Equal Job Opportunities for Gay and Lesbian Employees



Source: Gallup polling, May 2007

*Americans almost universally believe that workers should be judged solely on their job performance.*

their orientation. For transgender people, 20% to 57% of respondents reported having experienced unfair employment practices based on their gender identity.

## Things to Avoid

### 1) Avoid talking about “discrimination” in the abstract.

The term “discrimination” has been used across such a broad range of issues, and in such ideologically charged ways, that it can lead to polarized reactions that reduce public support. While the term “non-discrimination” can be indispensable for describing legislation like ENDA, broad references to “discrimination” don’t give people concrete reasons to support inclusive employment protections.

### 2) Avoid talking about “equal rights” or “equal employment opportunity.”

Instead, talk about legislation that prevents hardworking, high-performing employees from being fired just because they’re gay or transgender.

### 3) Don’t talk about “what people do in their private lives.”

This legislation is about ensuring hardworking Americans aren’t unfairly fired for reasons that have nothing to do with their job performance.

## Inclusive Employment Protections Glossary

### The solution is about:

- employment/workplace protections
- protections for gay and transgender employees

### The people it helps are:

- hardworking Americans
- hardworking gay and transgender Americans
- gay and transgender employees

### Who want to:

- earn a living
- provide for themselves and their families

### The unfair practices we want to address include people being:

- unfairly fired/unfairly treated
- fired for reasons that have nothing to do with job performance
- fired solely, or just because, a person is gay or transgender
- refused jobs solely because a person is gay or transgender
- harassed, hurt



4) **Avoid anti-gay activists’ red herrings.** They may want to stir up unfounded fears, such as those about gay people as teachers. If they do, remind your audience that 20 states have already successfully implemented legislation that is inclusive of gay educators, then circle back to how we can protect hardworking Americans from being unjustly fired just because they’re gay, lesbian, bisexual or transgender.

## ABOUT THIS SERIES

This is one in a series of documents on effectively talking about lesbian, gay, bisexual and transgender issues, including: Overall Approaches, Marriage & Relationship Recognition, Inclusive Employment Protections, Inclusive Hate Crimes Laws, Adoption & Gay Parents, and Ending Don’t Ask, Don’t Tell. For additional information, please email [talkingaboutseries@glaad.org](mailto:talkingaboutseries@glaad.org). © 2009 Gay & Lesbian Alliance Against Defamation and Movement Advancement Project.