



# DOJ Pride

The Gay, Lesbian, Bisexual, and Transgender Employee Association of the U. S. Department of Justice

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September 26, 2008

The Honorable Michael B. Mukasey  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Mukasey:

We would like to express our continuing gratitude for the leadership you have shown in making the Department a more welcoming place for LGBT employees. Your remarks at our annual Pride Celebration were extremely well-received, and the prospective employees we met at the Lavender Law Career Fair deeply appreciated the opportunity to meet with Department employees.

We urge you to further welcome LGBT employees to the Department by adding to our EEO policies (including 28 C.F.R. § 42.1) a prohibition of discrimination on the basis of transsexual status or on the basis of nonconformity to traditional gender stereotypes. These forms of discrimination are commonly referred to as discrimination on the basis of gender identity and gender stereotypes.

Our request has particular salience in light of last week's ruling by the District Court for the District of Columbia that Title VII of the Civil Rights Act of 1964 protects employees from discrimination on the basis of gender identity or gender expression. The Court held that the Library of Congress unlawfully revoked its offer of employment as a terrorism research analyst to Diane Schroer, a twenty-five year veteran of the U.S. Armed Forces with experience in Special Operations, upon her prospective supervisor's discovery that she was in transition from male to female. The Court explicitly based its opinion on gender identity and gender expression as protected classifications, writing "I do not think that it matters for purposes of Title VII liability whether the Library withdrew its offer of employment because it perceived Schroer to be an insufficiently masculine man, an insufficiently feminine woman, or an inherently gender-nonconforming transsexual." *Schroer v. Billington*, 2008 U.S. Dist. LEXIS 71358 at \*34.

Aside from the legal imperative, prohibiting discrimination on the basis of gender identity is a sound and increasingly common employment practice. As of last year, 230 major corporations, from Clear Channel to Coors, prohibit discrimination on that basis. The practice is



also prevalent within the legal community, with more than one hundred of the law firms participating in this year’s Lavender Law Career Fair prohibiting this form of discrimination. Protection is growing within the public sector, as the EEO policies of seventeen states include gender identity. We attach for illustration the policy of the United States Postal Service, “The Postal Service Policy Statement on Sexual Orientation, Gender Identification, and Gender Stereotyping.”

We look forward to hearing your response to our request. Thank you for your time and attention.

Respectfully,

Chris Hook  
President

Regan Hildebrand  
Vice President

Gavin Hilgemeier  
Secretary

Marc Salans  
Board Member

Caryn Mark  
Board Member

John Elias  
Board Member



### **Appendix: The Postal Service Policy Statement on Sexual Orientation, Gender Identification, and Gender Stereotyping**

The Postal Service is committed to ensuring a workplace that is free of discrimination and to fostering a climate in which all employees may participate, contribute, and grow to their fullest potential. We recognize and value our diverse workforce and are committed to fair treatment of all employees.

Harassment and disparate treatment based on actual or perceived sexual orientation, gender identification and/or gender stereotypes will not be permitted or condoned in the Postal Service. Managers and supervisors must take appropriate steps to maintain a workplace free of discrimination against any person based on his or her sexual orientation or identity. Each of us should:

- Treat every co-worker, customer, and supplier with respect and dignity.
- Examine our attitudes and actions toward people who are different from us.
- Speak out when we see harassment and discrimination in our work environment.