



ACS Issue Brief Author Urges Congress to Protect LGBT Workers and Pass the Employment Non-Discrimination Act (ENDA)

For Many Workers Labor Day is Cause for Celebration; For the LGBT Community, Author Says, Congressional Action is Needed to Achieve Workplace Equality

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Washington, D.C. – For some, Labor Day may be a fleeting moment for taking stock of personal and professional advancement, for millions of others it is a day to celebrate the nation’s workforce. But for lesbians, gay men and transgender persons, it is a reminder that equality in the workforce has yet to be achieved, writes Professor Maxine Eichner in an ACS Issue Brief urging Congress to pass the Employment Non-Discrimination Act (ENDA).

Eichner, a professor at the University of North Carolina School of Law, notes that Congress has taken many steps to protect workers from discrimination, including passing the Civil Rights Act of 1964, which “prohibited discrimination on a number of bases: race, religion, color, national origin and sex,” as well as other federal laws protecting against age discrimination and discrimination against workers with disabilities.

These achievements highlight the continuing lack of federal protection for lesbian, gay, bisexual, or transgender (LGBT) workers, writes Eichner in “[The Employment Non-Discrimination Act: Requiring Fairness for All Employees Regardless of Sexual Orientation or Gender Identity](#).” The author calls for Congress to finally pass ENDA as part of its tradition of working to end discrimination in the workplace.

“ENDA,” Eichner explains, “would ban discrimination based on sexual orientation and gender identity with respect to hiring, firing, and terms of employment. The bill would also protect workers from retaliation. In this way, ENDA is an important step toward ensuring fairness for LGBT workers. The legislation stands for the proposition that like other employees, gay, lesbian, bisexual, and transgender employees should be judged based on their work performance, rather than on their sexual orientation or gender identity.”

Citing a recent CareerBuilder.com study, Eichner notes that twenty-eight percent of LGBT workers reported suffering from workplace discrimination.

“In one reported case, a gay maintenance worker had his hands and feet bound by his co-workers. In another, a transgender corrections officer was smashed into a concrete wall. Further, accounts of LGBT workers who are subjected to harassing comments and unequal working conditions once their status was discovered abound.

“Because of the lack of legal protections, many LGBT workers constantly police their own interactions with others in order to avoid disclosing their LGBT status: They pay attention to every statement they make to ensure that they do not disclose their living situation, family status, the identity of their partner, where and with whom they went the night or weekend before, and so on,” Eichner writes.

Federal action is needed, Eichner continues, because most states have failed to respond to discrimination against LGBT workers. “Twenty-nine states, including all of the South, and most of the Midwest and West, afford no employment discrimination for gays and lesbians. Moreover, the twenty-one state statutes that offer some protection generally are significantly limited in scope.”

She concludes that Congress should act by passing ENDA, which she calls a “modest, pragmatic step that would help ensure that these workers are judged fairly, based on their work performance rather than their sexual orientation or gender identity.”

Eichner’s Issue Brief is [available here](#) (pdf). Contact the ACS Communications Department to arrange interviews with the author.

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