

Queer & Allied Activism at the University of Virginia

RESOLUTION April 20, 2010

Concerning Non-Discrimination

WHEREAS, the non-discrimination policy at the University of Virginia currently includes protection for sexual orientation and has for nearly two decades (since January 1991);

WHEREAS, the [University's non-discrimination policy](#) does not include protections for gender identity or gender expression;

WHEREAS, [the Virginia Human Rights Act](#) does not include protections for sexual orientation, gender identity, or gender expression;

WHEREAS, lesbian, gay, bisexual, transgender and queer (LGBTQ) people have not yet been recognized as a suspect class by the United States Supreme Court, but are protected under the Equal Protection Clause of 14th Amendment of the United States Constitution;

WHEREAS, the Board of Visitors of the University of Virginia are committed to diversity;

WHEREAS, a diverse and inclusive learning environment which respects and enhances the potential of all members of our community is crucially important to the University's mission of achieving excellence in teaching, research and public service;

WHEREAS, the University competes to remain attractive among other leading colleges and universities to recruit and retain the best and brightest faculty, staff, students, and administrators;

WHEREAS, of the top schools as ranked by US News & World Report, 49/50 protect sexual orientation and 38/50 protect gender identity based on the research of [Queer & Allied Activism](#) and the Student Council Diversity Initiatives Committee;

WHEREAS, we honor the first anniversary of the April 4th 2009 hate crime against a gay student at the University;

WHEREAS, at least 1,617 of 9,168 reported hate crimes (17.6%) were committed based on sexual orientation in 2008 according to [FBI statistics](#);

WHEREAS, such hate crimes send a message of fear and exclusion throughout our community;

WHEREAS, no member should feel unwelcome, unsafe, or fear violence in our Community of Trust;

WHEREAS, the [medical and public health literatures report](#) that lack of state-level protections for sexual and gender minorities is associated with increased incidence of HIV infections and greater prevalence of psychiatric co-morbidities, and that animus, prejudice, and discrimination against sexual and gender minorities are associated with many adverse health impacts, producing avoidable human tragedy and economic costs, in workplaces, health systems, and society;

WHEREAS, Thomas Jefferson, founder of the University of Virginia, left a legacy of non-discrimination authoring one of the earliest non-discrimination policies, the [Virginia Statute for Religious Freedom in 1779](#) which was adopted by the General Assembly in 1786;

WHEREAS, the Virginia Statute for Religious Freedom states: "that to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy which at once destroys all religious liberty;"

WHEREAS, Thomas Jefferson said in his First Inaugural Address: "that though the will of the majority is in all cases to prevail, that will to be rightful must be reasonable; that the minority possess their equal rights, which equal law must protect, and to violate would be oppression;"

WHEREAS, Governor Bob McDonnell in his Executive Directive 1 states: "The Equal Protection Clause of the United States Constitution prohibits discrimination without a rational basis against any class of persons. Discrimination based on factors such as one's sexual orientation or parental status violates the Equal Protection Clause of the United States Constitution. Therefore, discrimination against enumerated classes of persons set forth in the Virginia Human Rights Act or discrimination against any class of persons without a rational basis is prohibited;"

WHEREAS, McDonnell continues: "Consistent with state and federal law, and the Virginia and United States Constitutions, I hereby direct that the hiring, promotion, compensation, treatment, discipline, and termination of state employees shall be based on an individual's job qualifications, merit and performance. No employee of the Executive Branch shall engage in any discriminatory conduct against another employee;"

WHEREAS, public colleges and universities in Virginia have autonomy within their "own charters" to ["make all needful rules and regulations"](#) concerning their operations and to ["generally direct the affairs of their institutions;"](#)

NOW, THEREFORE, BE IT RESOLVED on this twentieth day of April, 2010, that the undersigned parties hereby urge legislation be passed to codify protections against discrimination in local, state, and federal employment based on sexual orientation, gender identity, and gender expression;

BE IT FURTHER RESOLVED that the undersigned parties urge:

- (1) The Board of Visitors of the University of Virginia to reaffirm the University's non-discrimination policy ([HRM-009](#)) protection for sexual orientation and expand the policy to include gender identity and gender expression;
- (2) The Virginia General Assembly to amend Section 2.2-3900 of the Virginia Human Rights Act to include sexual orientation, gender identity, and gender expression (e.g. [H.B. 1287](#)) and pass legislation that prevents workplace discrimination for all Virginia employees (e.g. [S.B. 66](#));
- (3) The United States Congress to pass legislation that prevents workplace discrimination for all employees. (e.g. the Employment Non-Discrimination Act [H.R. 3017](#) and [S.1584](#).)