

Gay and Transgender Issues in the Workplace

Teachable Moments, Attitudes on Diversity & Transgender Rights

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Three Internet items grabbed my attention in the past few days. They speak to us about how we can continue our diversity initiatives during this economic meltdown, how employees view diversity and inclusion today, and what advances we are making despite the roadblocks.

In my attempt not to be left behind in this new age of information technology, I have followed the advice of friends and opened accounts on [YouTube](#), [Facebook](#), [MySpace](#), [Blog.com](#), [LinkedIn](#), [Plaxo](#), and [Twitter](#).

Rarely do I log into these sites, as expected, to tell others of my mood or what I'm up to at that moment. But I do employ these Internet places as a means of educating others on issues of diversity and inclusion. In doing so, I get a lot of mail from readers to which I respond. By far, the most mail I receive is in reaction to a [video clip](#) of mine on YouTube. This particular five minute segment is from my corporate presentation when I tell the story of sitting next to a fundamentalist Christian on an airplane. It's a great story, and true, ending with the man telling me that God had him sit next to me and that he would never again think of homosexuality in the same way. A message that arrived in my e-mail this week from a YouTube viewer stated:

"I have a question for you Mr. McNaught. First I'd like to say that despite my feelings to the contrary of your position, I intend on maintaining all civility. I want to hear from you why you believe so many homosexuals believe marriage to be a civil liberty and not just a religious ceremony. I've noticed that only when government became involved in religious affairs by issuing marriage licenses, and when religion began to lose hold in government, did people see it as a right for all people."

As many of you probably already know, the person writing to me has his or her facts quite jumbled. Marriage began as a civil contract, created by the state to outline boundaries and responsibilities, including property rights and rights of inheritance. The rules regulating marriages have changed dramatically over time, and continue to vary from place to place. The state, both domestic and foreign, can and has established the age at which a person can marry, the number of spouses, the rights of surviving spouses, the race of spouses, and more recently the gender of those who wed. St. Paul was the first to speak of marriage as a sacrament, though many organized religions had previously witnessed the unions on behalf of the community. The state allowed religious ministers to act in its behalf and officiate at marriages, though in countries where organized religion is not allowed, ministers have no such rights.

I never know if such a response will be convincing to the person who wrote. It depends on the mood and the goal of the sender. This same person who pledged civility also sent a message that mocked my Christian lineage because I explained in my YouTube clip that I was raised Irish Catholic. I'm not sure that he or she is really interested in my reply. However, since thousands of others on the

Internet read the questions and answers at all of these sites, the Q&A provides wonderful teachable moments. This is particularly helpful during this time when our efforts to educate in the workplace must cope with the obstacles created by the economy.

This brings me to the second item of interest. The [American Society of Employers](#) (ASE) has released the findings of its 2009 Survey on Diversity and Inclusion. ASE concluded from the survey that the growth in formal diversity initiatives in organizations has stayed flat or even dropped slightly in the last three years. According to President and CEO Mary Schroeder:

“This is obviously not a desirable finding, but there is good news in the detail. We asked the survey participants to identify the barriers to implementing formal diversity programs.

Of the nine potential barriers from which they could select, respondents identified the top barrier as ‘Changing Business Conditions.’ ‘Lack of resources for diversity/inclusion initiatives’ (i.e., financial barriers) came in at number three. Taken together, they suggest that the survival mode that so many organizations find themselves in today is forcing them to do without formal diversity initiatives.

We think even more important is the fact that neither ‘Lack of support from senior management’ nor ‘Resistance from staff’ made it into the top five barriers. This is where the news is good. There is strong support for the principle of diversity and inclusion both up and down organizations—i.e., not only in senior management, and not only among workers.

Add to this the top reason that participants gave for implementing and maintaining diversity programs: the belief that valuing diversity and inclusion positively impacts the organization’s bottom line. It all says to us that while the current stress in the economy has stalled things in important ways, the future for workplace diversity remains positive.”

This brings us to the third item of interest. The area in which the most significant advances have been made in the workplace today, I believe, is the rights for, and sensitivity to, transgender employees. Record numbers of companies are adding “gender identity/expression” to their non-discrimination policies. Some firms are now covering the cost of gender realignment surgery. Increasingly, states and municipalities are prohibiting workplace discrimination against transgender people, and the [Employment Non-Discrimination Act](#) (ENDA) will probably soon be passed by Congress with protections for both gay and transgender employees.

In the past week, a federal judge ruled that the Library of Congress illegally discriminated against a Special Forces veteran when she was denied a job after announcing her intention to transition from male to female. According to news accounts:

“Diane Schroer of Alexandria, Virginia was awarded nearly \$500,000 in damages. In what is seen as a groundbreaking decision, U.S. District Judge James Robinson ruled that discriminating against someone for changing genders is sex discrimination under federal law.

After retiring from the military, Schroer, who had been hand-picked to head up a classified national security operation while serving as a Special Forces officer, applied for a position with the Library

of Congress as the senior terrorism research analyst. A short time later she was offered the job, which she accepted immediately. Prior to starting work, Schroer took her future boss to lunch to explain that she was in the process of transitioning and thought it would be easier for everyone if she simply started work presenting as female. The following day, Schroer received a call from her future boss rescinding the offer, telling her that she wasn't a 'good fit' for the Library of Congress. The ACLU filed the lawsuit against the Library of Congress on June 2, 2005. The lawsuit charged that the Library of Congress unlawfully refused to hire Schroer in violation of Title VII of the Civil Rights Act, which protects against sex discrimination in the workplace.

The Library of Congress moved to dismiss the case several times, claiming that transgender people are not covered under the 1964 law. In his ruling, Robinson ordered the government to pay Schroer \$491,190 in back pay and damages. The suit was fought during the Bush administration. It is considered unlikely the Obama administration will appeal.”

Despite the impact of the economy, we are figuring out new ways to continue our diversity initiatives through “teachable moments.” Employers and employees still see the value of diversity and inclusion, and we’re making great legislative progress. That’s all good news.