

Why Solomon Matters: The Law School Perspective

by Ellen Rutt

Every fall the rites of OCI begin. Students appear transformed by new suits and professional demeanors, ready to talk to employers and find the right job. Thanks in large part to the aggressive non-discrimination policies adhered to by both law schools and employers, the students anticipate the ability to interview for virtually every type of employment opportunity.

For gay, lesbian, bisexual, and transgender law students (GLBT) however, the OCI season brings the grim reality of the Solomon Amendment and the “don’t ask, don’t tell” policy of the United States government onto campuses and into career services offices. GLBT students alone face government-imposed discrimination. This overt discrimination would never be tolerated by law schools if it were not forced upon them. The Solomon Amendment represents more than a closed door for employment with the military by GLBT students who do not conceal their sexual orientation; on many campuses it is viewed as an affront to students, employers, and faculty and staff — GLBT or not.

The history of Solomon on our campuses is one of action and reaction. A 1990 AALS ban on discrimination on the basis of sexual orientation generally ended military on-campus recruiting at most law schools. The original Solomon Amendment, approved in reaction to such bans, threatened to revoke Department of Defense funding only. Since most law schools had little or no direct DoD funding, the law had little impact. In response, Congress added more teeth to Solomon, significantly broadening the scope of at-risk federal funding. Given the new magnitude of the potential fiscal damage to law schools and parent universities, the AALS felt compelled to amend the discrimination policy and permitted military recruitment on law school campuses,

provided that appropriate ameliorative actions were taken.

Today when the military recruits on our campuses, we initiate ameliorative actions. These alone can cause concern and controversy during OCI and beyond. Depending on the school, the actions may range from de minimus to significant. Notices deploring the government-imposed discrimination are posted, and demonstrations, teach-ins, silent (and not so silent) vigils and other forms of protest may occur. Yet, as this happens, we recognize that many fine students want to interview with the military, and that it is our job to facilitate that opportunity for them. Campus and personal relationships may be strained, all in the name of Solomon.

Most legal employers are unaware of the hardship and problems Solomon creates unless they happen to be on campus on a day when the military recruits. Students voice concerns that non-military legal employers may see a GLBT (or other) student in a negative light if she or he is actively protesting while they are on campus. A natural student concern is that this may have a chilling effect on both hiring and student participation in ameliorative activities. Moreover, GLBT students do not want to be seen as unpatriotic. Solomon, after all, represents the lack of opportunity for GLBT students to serve their country, and the **denial** of that patriotic right is the catalyst for protest.

From the moment admission officers begin recruiting potential applicants to our law schools, we typically describe our campuses as tolerant places, welcoming diversity of every kind. Sadly, that promise is broken almost from the start. New students, merely days after enrolling in our law schools, learn about Solomon and its

attendant discrimination first-hand. It is frequently an ugly and anxiety-producing process.

When we deplore discrimination, legislate against it, try to make our law school populations reflect the composition of the rest of the country, and insist that employers adhere to an open and fair recruitment process, Solomon represents an incongruous and hurtful impediment. Law schools ask all legal employers both to be aware of the existence of the rule and to support our efforts to provide amelioration for a policy not allowed by any other employer. Solomon matters on our campuses, every day and on many levels. It should equally concern those legal employers who patronize our career services offices.

The Solomon Amendment Task Force has established a special section of NALP's web site with information on the Amendment. To visit this section, go to NALP's home page at www.nalp.org and click on the "Learn more about the Solomon Amendment" link.

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