

Amelioration Best Practices Guide



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Foreword

Law schools have now been engaged in responding to the discrimination inherent in the “Don’t Ask, Don’t Tell” law and the ensuing Solomon Amendment legislation for more than ten years. Under all of the various incarnations of the Solomon Amendment legislation, military recruiters have been entitled to a substantial amount of resources and assistance from law schools and their career services offices even though the military’s discriminatory hiring policy that excludes gay, lesbian, and bisexual lawyers from serving in the military is contrary to the values to which individual schools are committed. The military has sought and obtained what no other employer gets: assistance without compliance with a school’s requirement of adherence to its nondiscrimination policy. In the face of this regime, the Association of American Law Schools has long required that law schools ameliorate the presence of the military on campus. NALP, for its part, has long been committed to supporting its member law schools in enforcing their own nondiscrimination policies, and has provided educational programming and tools to help law school career services offices navigate the often difficult Solomon waters on their own campuses.

This *Guide* grew out of a survey research project of NALP’s GLBT Section in the fall of 2006. In the aftermath of the *Rumsfeld v. FAIR* decision that upheld the validity of the Solomon Amendment against a First Amendment challenge, the question within NALP’s GLBT Section soon became whether law schools were in fact doing anything differently since the *FAIR* decision. In order to investigate this question, between November 15 and December 15, 2006, NALP undertook a project to survey its US member law schools to determine what steps they were currently taking to respond to the on-campus presence of military recruiters and to collect information about new ameliorative initiatives since the *FAIR* decision was released. (A copy of the survey instrument, summary results, and information about the survey methodology are available at Appendix A.)

One of the surprising findings of the survey is that in the nine months that followed the Supreme Court’s decision, only a very small number of law schools reported undertaking any new initiatives to protest or ameliorate the discrimination inherent in the Solomon Amendment, despite the Supreme Court’s assurance in *FAIR* that “law schools remain free under the statute to express whatever views they may have on the military’s congressionally mandated employment policy, all the while retaining eligibility for federal funds.” *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 126 S. Ct. 1297, 1307, 547 U.S. 47, _____ (2006). In fact, rather than freeing up or energizing people to vigorously challenge the validity of

the military's hiring practices, at some schools the Court's decision seems to have produced a sense of resignation that has actually served to diminish the commitment to acts of protest and amelioration. While most schools continue to post their nondiscrimination policies when military recruiters are on campus, some schools documented that even this is no longer a practice.

The survey provided a list of possible ameliorative actions that schools might undertake, and also asked schools to document other creative acts of protest or amelioration that were not suggested by the survey. This *Best Practices Guide*, put together by a work group of NALP volunteers, collects together in one place all of those practices so that law schools might readily consult a single list of possibilities when devising a strategy that is appropriate for a particular campus. Because each school is so different, the appropriate amelioration plan for each school will necessarily also be different. While NALP's survey work did not suggest an easy or obvious list of best practices for every school, I feel confident making *three* suggestions about what law schools can and should do going forward:

- **First**, law schools should, on an annual basis, convene a group of faculty, staff, and students to evaluate the relevancy and weight of the school's current ameliorative and protest practices and actively evaluate whether new, different, or additional strategies might be appropriate. Responsibility for this annual evaluation will best be met if law schools either designate a single person on campus to facilitate and coordinate Solomon amelioration, or staff a Solomon Amendment task force to address the presence of discriminatory military recruiting on campus.
- **Second**, law schools should actively engage students, faculty, and staff to devise strategies for individually and collectively working with members of Congress to repeal the military's ban on lesbian, gay, and bisexual military personnel. The NALP survey makes it clear that up until this moment, very few law schools have been actively engaged on Capitol Hill in advocating for change in this arena. If Congress does not hear from the legal academy on this issue, then we will have abdicated a historic responsibility. As an educational tool, this provides an ideal opportunity for engaging students in the process of tackling legislative change.
- **Third**, law schools across the country continue to recruit and accept tuition from students who, simply because of their sexual orientation, are not eligible to compete for jobs that recruiters come to campus to fill. Therefore, at least once a year, law school faculty and staff should ask their GLBT students what sort of support they would like in the face of this discrimination.

I hope you find this *Guide* helpful in meeting your school's amelioration obligations.

— *James G. Leipold, Executive Director*
NALP



CHAPTER ONE:

Why Ameliorate?

Military recruitment on campus has placed law schools in a precarious position. The Association of American Law Schools (AALS), as well as many law schools' own nondiscrimination policies, forbids potential employers from discriminating based upon sexual orientation. Our country's military, through the "Don't Ask, Don't Tell" law, discriminates against gay, lesbian, and bisexual law students. (Transgendered individuals are forbidden to serve in the military as proscribed in the military's medical regulations.) Gays, lesbians, and bisexuals can serve in the military as long as they don't reveal their sexual orientation, while heterosexuals have no comparable nondisclosure requirement.

In normal circumstances an employer with an openly discriminatory hiring policy would be forbidden from recruiting on campus and using a school's career services office. However, due to a series of federal laws including the Solomon Amendment, as interpreted in *Rumsfeld v. FAIR*, law schools cannot prevent the military from recruiting on-campus without risking a potential loss of federal funding. This forces law schools to violate their own nondiscrimination policies.

The AALS prescribes a policy of "amelioration" at schools where the military recruits on campus. Amelioration can be defined as the act of relieving ills and changing for the better; it literally means to make better or more tolerable, to make more bearable or more satisfactory, or to improve. For gay, lesbian, bisexual, and transgender (GLBT) students, the fact that the military recruiters come to campus to recruit for jobs for which they may not compete is an unacceptable act of discrimination. Therefore, law schools have a duty to ameliorate, or make better or more tolerable, the presence of the military on campus.

History of Amelioration

In 1990, the AALS added "sexual orientation" to its nondiscrimination policy pursuant to Bylaw 6-4. Regulation 6-19 requires employers who recruit at law school campuses to provide written assurances that they don't discriminate on any basis listed in Bylaw 6-4, including "sexual orientation." Since the military refuses to hire

openly GLBT candidates, allowing their recruiters on campus would violate AALS policy. The AALS thus mandated that its members forbid military recruiting on campus.

In 1995, Congress passed the first Solomon Amendment, which denied Department of Defense funds to any schools that barred military recruiters from campus. In 1996, Congress extended the Solomon Amendment's reach to include denial of funds from not only the Department of Defense but also the Departments of Education, Labor, and Health and Human Services. In 1997, the AALS amended its policy. They decided to excuse noncompliance with Bylaw 6-4 (allowing military recruiters access to campuses) as long as member schools ameliorated the presence of the military on campus.

In 1999, the federal government exempted student financial aid from the type of federal funds that could be withheld from law schools barring military access to campus. The AALS again required member law schools to comply with Bylaw 6-4 and prohibit the military from recruiting on campus.

In 2002, the Department of Defense confirmed that the Solomon Amendment would exempt student financial aid. However, they determined that all other federal funding to the university would be at risk. This meant that if a law school refused to allow the military on campus, its parent university could suffer dire consequences. With so much at stake, the AALS again reversed its policy and excused law school noncompliance with Bylaw 6-4 as long as the law school ameliorated the military's presence on campus.

The Forum for Academic and Institutional Rights (FAIR), an organization of 36 law schools and academic faculties, brought suit against the government, challenging the legality of the Solomon Amendment on First Amendment grounds. Initially, the district court ruled against FAIR. On appeal, the Third Circuit held that the Solomon Amendment was unconstitutional because it violated the First Amendment. FAIR was joined in this lawsuit by the Society of American Law Teachers (SALT) as well as individual plaintiffs.

The Third Circuit case was appealed to the United States Supreme Court. In March 2006, the Court rejected the arguments of FAIR and SALT and upheld the constitutionality of the Solomon Amendment. It should be noted that the Supreme Court upheld the constitutionality of the Solomon Amendment based on theories premised on the First Amendment. Some academics believe that the Solomon Amendment may be successfully challenged in the future on other theories and grounds.

In light of the Supreme Court's ruling and as the federal law currently stands, AALS member schools must allow the military to recruit on campus or risk the loss

of federal funding to their entire universities. The presence of military recruiters then triggers a duty to ameliorate.

AALS Requirements

The only ameliorative step that is absolutely mandated by the AALS is that each law school post a notice stating that the military's practice of discriminating against openly GLBT individuals is inconsistent with the law school's own nondiscrimination policy. However, posting a statement is not sufficient to meet the AALS amelioration requirement. A school must be able to demonstrate that additional steps have been taken. The purpose of this *Best Practices Guide* is to provide a variety of steps that can be tailored to specific types of schools.

It is critical to note that the AALS is quite clear on what is NOT ameliorative. According to the AALS, ameliorative steps are NOT:

1. *Pro Forma Activities*: activities likely to go unnoticed by a substantial part of the student body;
2. *Ad Hoc Activities*: activities that are not part of a deliberate planning process, and thus unlikely to have a long-term positive impact; and
3. *Student-Driven Activities*: activities where the burden is on the students to raise the issues.

There is no set number of ameliorative steps that a law school must take. What is right for one law school may not be right for another. Programming may change from one year to the next depending on the status of the issue as well as the current student population. Consistent and thoughtful attention to this issue is what matters most.

Things to Consider When Deciding Which Steps Are Best for Your School

When deciding which steps to take and how many steps to engage in, law schools must keep in mind that there may be students who legitimately want to work for the military. It is important that this constituency not be ignored. Career services offices must consider what can be done to meet the needs of those students while not alienating the GLBT student population. The purpose of amelioration is not to discourage students from pursuing military careers. Our membership in AALS requires us to respond to the military's discriminatory hiring practices by clearly stating that their presence violates our anti-discrimination policies and mandates special outreach to GLBT students.

Most GLBT students seek recognition from the law school that the presence on campus of an employer who discriminates against them is taken seriously. All students will wish to see evidence that the law school genuinely cares about its anti-discrimination policy. When deciding what steps to take, talk to student groups (GLBT student groups specifically, if they exist) and educate them about the issues surrounding military recruitment on law school campuses. Ask them what they would like amelioration to accomplish. Opening up this line of dialogue will go a long way to promoting a positive environment on campus.

Building Stronger Ties to Your Local GLBT Bar and Community

As an overall ameliorative step, it is important for law schools to have strong ties with the local GLBT Bar and GLBT community. These ties will show that your law school is an open and inclusive institution, foster mentor/mentee relationships for law students, and provide career services staff with valuable resources, such as speakers and panelists who can assist with ameliorative efforts. Most major metropolitan areas have some type of GLBT Bar Association or GLBT Professionals group. Typically these organizations can provide a list or directory of GLBT lawyers. A Gay and Lesbian Community Center may be able to provide similar referrals. Finally, your GLBT students are a good source of information about local GLBT lawyers. In researching schools, students may have already made contact with lawyers in the community. Don't be afraid to ask them for information.

Military recruitment and the resulting ameliorative actions are sensitive topics on many campuses. The key to success in this situation is communication. Communicate with your students, your faculty, and your administration. Also, it is important to reach out to your NALP colleagues and ask for assistance and share ideas, questions, and concerns.



CHAPTER TWO:

Faculty and Administration-Led Ameliorative Responses

Law school administrators and faculty must endeavor to lead the way on matters of amelioration. It is inappropriate (and counter to AALS policy) to rely on the efforts of the student body. Although many schools have active GLBT and non-GLBT students who are eager to respond to the military's presence on campus in a variety of creative ways, faculty and administration have an obligation to take meaningful ameliorative steps every year. Moreover, it should not be assumed that a lack of protest or concern by students in response to the presence of military recruiters is a sign that the issue can be ignored.

In many cases it may be appropriate for the law school's career services staff to oversee ameliorative steps. The law school career services office is best positioned to know when the military recruiters are coming to campus, and is frequently the first place students go to discuss their concerns. However, it is critical that every member of the senior law school administration is well informed about and engaged in whatever ameliorative steps are taking place. Wherever possible, the dean ought to serve as the official voice of the administration and be able to clearly articulate the law school's position on military recruiting on campus. Moreover, many students have said that faculty participation in amelioration efforts frequently serves to validate the issue and gives it prominence.

It is worth noting that some the following suggestions not only serve as ameliorative steps, but as ways that faculty, staff, and administration can generally make the campus a welcoming and inclusive place for GLBT students.

Our survey revealed that at least some schools have undertaken the following faculty and administration-led ameliorative steps:

- Circulating or posting the law school's nondiscrimination policy.
- Circulating or posting a statement specifically addressing military recruiting on campus.

- Circulating a faculty resolution protesting “Don’t Ask, Don’t Tell” and/or the Solomon Amendment.
- Circulating or posting a letter from the dean regarding the law school’s opposition to military hiring policies.
- Including a statement regarding military recruitment at the bottom of all e-mails from career services staff.
- Including information about the Solomon Amendment in orientation materials or OCI information handouts.
- Amending the law school nondiscrimination policy to specifically address military recruiting.
- Informing the GLBT law student group (well in advance) of the date that military recruiters will be on campus.
- Organizing a panel discussion with openly GLBT attorneys to discuss their careers.
- Conducting a teach-in, debate, or panel on “Don’t Ask, Don’t Tell.”
- Purchasing rainbow buttons, stickers, wristbands, or other symbolic items to distribute to the campus community.
- Displaying rainbow flags, positive GLBT symbols, or other expressions of solidarity with GLBT students year-round.
- Facilitating a GLBT alumni-student mentoring program.
- Establishing a school-wide Solomon Amendment task force (or similar group).
- Sponsoring events with local GLBT legal advocacy organizations.
- Providing funding to GLBT students to attend off-campus GLBT law-related events or programming (e.g., Lavender Law).
- Arranging a dean’s lunch with GLBT students while military recruiters are on campus.
- Establishing a fellowship for summer or post-graduate work on GLBT issues.
- Submitting letters, editorials, or articles to local or national media outlets about the Solomon Amendment and military recruiting on campus.

- Educating OCI employers about the Solomon Amendment and “Don’t Ask, Don’t Tell.”
- Speaking at an academic or professional conference about military recruiting or the Solomon Amendment.
- Offering a class or seminar in “sexual orientation and the law.”
- Including discussion or examination of the Solomon Amendment or “Don’t Ask, Don’t Tell” policy in the course curriculum.
- Cosponsoring or moderating an event organized by a GLBT student organization.
- Serving as the faculty advisor to the GLBT student group.
- Serving as the faculty or staff liaison to the Solomon Amendment task force.
- Circulating a petition or similar document expressing opposition to the Solomon Amendment.
- Lobbying or otherwise contacting members of Congress about “Don’t Ask, Don’t Tell” or the Solomon Amendment.
- Promoting and supporting community-wide outreach to GLBT students.



CHAPTER THREE:

Student-Led Ameliorative Responses

On campuses around the country, law students have spearheaded events, programs, outreach, and protests in order to ameliorate the effects of the Solomon Amendment and educate their communities about “Don’t Ask, Don’t Tell.”

While the AALS does not permit students to bear the brunt of amelioration responsibilities at member law schools, student-led responses to the Solomon Amendment (and the resulting *FAIR* decision) have been among the more visible and passionate responses to the military’s ongoing presence on campus. Our fall 2006 survey revealed many student-led ameliorative practices that could easily be replicated at different types of law schools.

In order to utilize the passion and creativity of the student-led response, schools can demonstrate a partnership with the students in organizing, sponsoring, and implementing the various ameliorative activities discussed below. However, all schools are encouraged to start by *asking the students what they want!* If your school has an established GLBT student group, talk with those students first about what the school can do to ameliorate the fact that the military will be on campus and provide other employment-related opportunities for them.

If your school does not have an established group, make it known which staff and faculty members’ offices are “safe spaces” to discuss issues of concern to GLBT individuals. Finally, encourage all student groups to engage with this issue and find out whether their national affiliate (ABA, ACS, NLG, BLSA) has taken a position on military recruiting on campus.

The NALP survey revealed that at least some schools have undertaken the following student-led ameliorative steps.

- Promoting, organizing and/or financing off-campus GLBT networking events or programming. The majority of responding schools reported that their students promoted and attended such events, including the annual Lavender Law Conference and Career Fair or a networking event with a local GLBT bar association.

- Organizing or sponsoring a panel, teach-in, or debate on the Solomon Amendment and “Don’t Ask, Don’t Tell.”
- Disseminating information about the Solomon Amendment school-wide. Students frequently post flyers around campus or use a website, e-mail, or other form of electronic communication to communicate with the entire law school about the Solomon Amendment.
- Staffing a table to distribute handouts and/or rainbow stickers and pins. Students are often willing to staff information tables in and around the law school building. Information and handouts on the Solomon Amendment and “Don’t Ask, Don’t Tell” policy are readily available online from a variety of sources. (See Chapter Four!) Rainbow stickers and pins are available at low bulk prices through mail-order websites
- Protesting or picketing military recruiters when they come to campus. More than a quarter of our survey respondents stated that law students protested or picketed military recruiters.
- Creating a Solomon Amendment task force and appointing student representatives. Nearly 30% of our respondents said they had an active task force on which students were active participants.
- Drafting and circulating a petition or resolution expressing opposition to the Solomon Amendment.
- Making announcements in class. Students may wish to use a few moments of class time to promote awareness of the Solomon Amendment, military recruiting on campus, or “Don’t Ask, Don’t Tell.”
- Lobbying members of Congress. Some students are actively engaged in lobbying Congress about repealing the military’s “Don’t Ask, Don’t Tell” policy.

CHAPTER FOUR:

Additional Resources

The *Rumsfeld v. FAIR* Decision

The text of the *Rumsfeld v. FAIR* decision can be found at http://www.nalp.org/assets/855_solomonddecisionfairrum.pdf

NALP Resources

Note: NALP members can access NALP Bulletin articles in the Bulletin archives at www.nalp.org. Nonmembers interested in receiving an article or inquiring about reprint permission should contact NALP Director of Publications Janet Smith at jsmith@nalp.org.

Andrew Chapin, "Collecting 2006 Lawyer Demographics — The Rewards Are Worth the Investment," *NALP Bulletin*, Vol. 18 No. 1 at 4-5 (January, 2006).

Andrew Chapin, "GLBT Attorneys: Progress Because of NALP Members!," *NALP Bulletin*, Vol. 17 No. 3 at 15 (March, 2004).

Shawn M. Beem, "Helpful Tips for Using NALP's GLBT Resources," *NALP Bulletin*, Vol. 18 No. 4 at 11 (April, 2006).

Carlos Dóvila-Caballero, "A Roadmap of GLBT Resources," *NALP Bulletin*, Vol. 18 No. 3 at 16 (March, 2005).

Carlos Dóvila-Caballero, "Lawyers, Students, Gather for Lavender Law 2005," *NALP Bulletin*, Vol. 18 No. 1 at 14 (January, 2006).

Judith N. Collins, "NALP Research: Most Firms Now to Collect GLBT Lawyer Information, Yet Overall Numbers Remain Low," *NALP Bulletin*, Vol. 18 No. 12 at 8-9 (December, 2006).

- Stacy J. Evans, "Military Recruitment and a Few Good Ameliorative Measures," *NALP Bulletin*, Vol. 16 No. 9 at 8-9 (September, 2003).
- Gary J. Greener, "Military Recruiting on Campus: Ameliorative Measures for Law Schools," *NALP Bulletin*, Vol. 18 No. 9 at 9-10 (September, 2005).
- James G. Leipold, "From the Executive Director: Amelioration after *Rumsfeld v. FAIR*," *NALP Bulletin*, Vol. 19 No. 2 at 30-31 (February, 2007).
- James G. Leipold, "From the Executive Director: Counting Out!," *NALP Bulletin*, Vol. 18 No. 12 at 22-23 (December, 2006).
- Michelle Mohr Vodenik, "Developing a Safe Space at Your Law School or Firm," *NALP Bulletin*, Vol. 18 No. 12 at 14-15 (December, 2006).
- Ellen Rutt, "Why Solomon Matters: The Law School Perspective," *NALP Bulletin*, Vol. 17 No. 11 at 9-10 (November, 2004).
- Stuart D. Smith, "Asking the Right Questions: How to Gather Information on 'Openly Gay' and 'Disabled' Employees for the NALP Form," *NALP Bulletin*, Vol. 16 No. 1 at 6-7 (January, 2003).
- Connie A. Zubler, "Breaking Barriers: Denver's Gay & Lesbian Initiative," *NALP Bulletin*, Vol. 16 No. 2 at 7-9 (February, 2003).

Handbooks

Feldblum, R.C. and M. Boucai, *Due Justice: Amelioration for Law School Compliance with the Solomon Amendment — A Handbook for Law Schools*, Georgetown University Law Center, 2003. The most comprehensive, detailed resource regarding compliance and "amelioration" suggestions for law school students, faculty, and career services offices. Also includes links to law school campuses and their efforts at amelioration. Available at:
<http://www.law.georgetown.edu/solomon/documents/handbook.pdf>

Articles

- "Talk Column: This Way Out," *American Lawyer Magazine*, January 2001, page 17.
- Bernstein, Bobbi, "When Good Intentions Aren't Enough: Observations of an Openly Gay Law Student Firm Applicant," 6 *Tulane University Journal of Law and Sexuality* (1996).
- James, David C., "Jobs Column: Tips for Navigating the Job Hunt When Your Race, Ethnicity, or Sexual Orientation Is in the Minority," *Student Lawyer*, February 1999, page 13.
- Mazur, Diane H., "A Blueprint for Law School Engagement with the Military," *Journal of National Security Law and Policy*, Vol. 1, 2005.
- McDonald-Druhm, Heather E., "Coming Out Ahead," *Student Lawyer*, November 1996, page 36.
- Quinan, Jr., Robert L., "To Be Out or Not to Be Out?," *Careers and the Minority Lawyer*, Crimson Brown & Associates, page 34.
- Minority Corporate Counsel Association, "Perspectives from the Invisible Bar: Gays and Lesbians in the Profession," <http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageID=612>.

Books

- Cain, Patricia A., *Rainbow Rights: The Role of Lawyers and Courts in the Lesbian and Gay Civil Rights Movement*, Westview Press, 2001.
- Eskridge, Jr., William N., *Gaylaw: Challenging the Apartheid of the Closet*, Harvard University Press, 2002.
- Koppelman, Andrew, *The Gay Rights Question in Contemporary American Law*, University of Chicago Press, 2002.
- Koppelman, Andrew, *Same Sex, Different States: When Same-Sex Marriages Cross State Lines*, Yale University Press, 2006.
- Murdoch, Joyce, *Courting Justice: Gay Men and Lesbians v. the Supreme Court*, Basic Books, 2002.
- Pinello, Daniel R., *Gay Rights and American Law*, Cambridge University Press, 2003.
- Yoshino, Kenji, *Covering: The Hidden Assault on Our Civil Rights*, Random House, 2006.

Online Resources

Solomon Response (www.solomonresponse.org). A comprehensive website with links to a detailed history of the Solomon Amendment, forms of amelioration, and resources and ideas for students and faculty members to raise awareness and fight discrimination.

Society of American Law Teachers (SALT) (www.saltlaw.org/solomon). An excellent resource on the Solomon Amendment and related topics created by the Society of American Law Teachers (SALT).

Servicemembers' Legal Defense Network (SLDN) (www.sldn.org). Servicemembers Legal Defense Network (SLDN) is a national, nonprofit legal services, watchdog, and policy organization dedicated to ending discrimination against and harassment of military personnel affected by "Don't Ask, Don't Tell" and related forms of intolerance. This site provides up-to-the-minute information for LGBT military members as well as legal resources.

Minority Corporate Counsel Association (www.mcca.com). The Minority Corporate Counsel Association (MCCA) was founded to advocate for the expanded hiring, retention, and promotion of minority attorneys in corporate law departments and the law firms that serve them. The "Research" section of MCCA's site (accessed by clicking on the Research link) features excellent resources including one entitled, "Perspectives from the Invisible Bar: Gays and Lesbians in the Profession." Under "Interest Areas," the page accessed by clicking the "Research" link also offers a list of resources for or about gay and lesbian attorneys.

Human Resources Campaign (www.hrc.org). The Human Rights Campaign is America's largest civil rights organization working to achieve gay, lesbian, bisexual, and transgender equality. HRC's website features a list of "Best Places to Work for GLBT Equality" (<http://www.hrc.org/placestowork/>), and the topical breakdown of best places to work includes law firms. In addition, the "Your Community" link on HRC's website leads to information on state organizations, as well as on state laws and legislation.

Pride Law Fund (www.pridelawfund.org). Pride Law Fund strives to support work that promotes the legal rights of the LGBT community, and people living with HIV and AIDS, by funding legal services and projects and by sponsoring education and outreach. The Roberta Achtenberg, Steven Block, and Mary Morgan Summer Fellowship Programs are open to law students working under the supervision of an attorney at a 501(c)(3) tax exempt nonprofit organization anywhere in the country. The Tom Steel Post-Graduate Fellowship funds a new lawyer each year to work in the

United States on an innovative, public interest law project that serves the LGBT community. Please check the website for deadline information.

Point Foundation (www.thepointfoundation.org). The Point Foundation is the first and only nationwide LGBT scholarship organization that focuses exclusively on granting assistance to undergraduate, graduate, and post-graduate students of distinction.

Queer Resources Directory (www.qrd.org). This is an online directory with information about legal employers, companies with nondiscrimination policies inclusive of sexual orientation, and companies providing domestic partner benefits.

Bill and Ann Shepherd Legal Scholarship (www.equityfoundation.org). A scholarship between \$1,000-\$3,000 is offered by the founders of PFLAG, Bill and Ann Shepherd. Although based in Oregon, the applicant doesn't have to be from Oregon or intend to practice there.

Voluntary Bar Associations

The *National Lesbian and Gay Law Association* (www.nlgl.org). NLGLA is the voice of the LGBT legal profession. This professional association, an affiliate of the American Bar Association since 1992, sponsors Lavender Law, an annual CLE conference for the LGBT legal community. Each year, Lavender Law offers a Career Fair for LGBT law students and lateral candidates. (See www.lavenderlaw.org, also accessible through NLGLA's main website, for information on Lavender Law.) NLGLA also offers networking to its more than 20 affiliated state, regional, or local LGBT bar associations across the country. For the most current list of voluntary bar associations affiliated with NLGLA, go to www.nlgl.org and click on *About > Affiliates*. This online list includes links to websites (although not all affiliates have websites) as well as e-mail links to contacts for some of the affiliates. The following is a list of the affiliates and their URLs at the time this *Guide* was compiled.

California — Los Angeles: *Lesbian and Gay Lawyers Association of Los Angeles* (www.lgla.net).

California — Sacramento: *SAC Lawyers for the Equality of Gays and Lesbians* (www.saclegal.org).

California — San Diego: *Tom Homann Law Association* (www.thla.org).

California — San Francisco: *Bay Area Lawyers for Individual Freedom* (www.balif.org).

Colorado: *Colorado Gay Lesbian Bisexual Transgender Bar Association*
(www.coloradoglbtabar.org).

Washington, DC: *GAYLAW* (www.GayLaw.org).

Florida: *Central Florida Gay & Lesbian Law Association* (Central Florida
GALLA) (www.cfglla.org).

Georgia: *Stonewall Bar Association of Georgia* (www.stonewallbar.org).

Illinois — Chicago: *Lesbian and Gay Bar Association of Chicago*
(www.chilagbac.org).

Maine: *Maine Lesbian & Gay Law Association* (MeLeGal).

Massachusetts: *Massachusetts Lesbian and Gay Bar Association*
(www.mlgba.org).

Michigan: *Stonewall Bar Association*.

Minnesota: *Minnesota Lavender Bar Association* (www.mnlavbar.org).

Missouri: *Lawyers for Equality*.

New Mexico: *New Mexico Lesbian and Gay Lawyers Association*
(www.outlawyersnm.org).

New York Region: *Lesbian and Gay Bisexual and Transgender Law Association*
of Greater New York (www.le-gal.org).

North Carolina: *North Carolina Gay and Lesbian Attorneys* (www.ncgala.org).

Ohio: *Ohio Human Rights Bar Association* (OHRBA).

Oregon: *Oregon Gay and Lesbian Law Association* (www.ogalla.org).

Pennsylvania: *Gay and Lesbian Lawyers of Philadelphia* (www.galloplaw.org).

Texas — Dallas: *Dallas Gay and Lesbian Bar Association* (www.dglba.org).

Texas — Houston: *Stonewall Law Association of Greater Houston*
(www.slagh.com).

Utah: *Utah Lawyers for Human Rights*.

Washington State: *QLAW: The GLBT Bar Association of Washington*
(www.q-law.org).

Judiciary: *International Association of Lesbian and Gay Judges*
(<http://home.att.net/~ialgj/>).

Appendices

- **Appendix A:**
Survey Materials
- **Appendix B:**
Sample Dean's Letter and Sample
Law School Statements on Military
Recruiting



APPENDIX A:

Survey

The survey was administered between November 15 and December 15, 2006, and was sent to the primary NALP representative at all US member schools. A copy of the survey instrument that includes summary responses follows. The survey made two basic inquiries of each school, asking them to document faculty and staff led responses related to Solomon and then, separately, student led responses and activities. The survey also asked respondents to distinguish between activities that were initiated on campus prior to the *FAIR* decision and those that were initiated after the *FAIR* decision. The survey was not designed as a piece of social science research. Rather, it was meant to be an informal survey to gauge current amelioration practices at US law schools and to try to determine whether those practices have changed since the *FAIR* decision. By designing a survey instrument that listed possible activities and actions, we also hoped to suggest to our member law schools a range of additional strategies they might consider.

The response rate for the survey was very good, at 58%, with 112 out of 192 US law schools providing a completed survey. The responses were distributed remarkably evenly across NALP's five geographic regions, and also across law schools based on size; urban, suburban, and rural location; and public/private status. The response rate and the distribution of responses across law schools suggest that the results provide a good, representative window onto law school practices across the country. As a practical matter, the survey was sent to chief career services officers at each law school, and they were encouraged to share copies of the survey with GLBT student organizations, as well as with interested faculty and staff members, before finalizing their responses.

Amelioration Best Practices Survey with Summary Results

The purpose of this survey is to find out what steps U.S. law schools have taken to respond to the on-campus presence of military recruiters, and to collect information about new ameliorative initiatives since *FAIR v. Rumsfeld* was decided in March 2006. Please answer the following questions to the best of your ability. Your responses will be kept confidential and used only in group summaries. Your school will not be identified by name or any other distinguishing feature in any report of the findings of this survey. **Responses were due by December 15, 2006, and were received by 112 of the 192 ABA-approved US law schools.**

We are grateful for your help. If you have questions about the survey please contact James Leipold at the NALP office at 202-835-1001 or jleipold@nalp.org.

1. Have members of the US military JAG Corps visited your school to recruit since the *FAIR v. Rumsfeld* case was decided by the Supreme Court in March 2006?
- Yes **98%** No **2%**

2. Is there a member of your school's faculty and/or staff who is designated to coordinate matters relating to the Solomon Amendment?
- Yes **63%** No **37%**
3. Does your law school have an officially recognized GLBT (Gay, Lesbian, Bisexual, and Transgender) student organization?
- Yes **88%** No **12%**
4. Does a member of the career services office meet regularly with your GLBT students to discuss the military's presence at your school?
- Yes **44%** No **56%**

Listed below are a variety of actions and activities (not limited to those coordinated by the career services office), that some law schools have instituted in response to the Solomon Amendment or to support their GLBT students in general. For each of the practices listed below, please indicate whether the practice began before the *FAIR v. Rumsfeld* decision, happened for the first time since the decision, or is not a practice on your campus.

Staff and faculty led responses and activities: (Use checkmarks to indicate the appropriate response for each item.)

	Initiated prior to <i>FAIR v. Rumsfeld</i> decision	Initiated after <i>FAIR v. Rumsfeld</i> decision	Not a practice on our campus
5. Circulating or posting law school's nondiscrimination policy	96%	1%	3%
6. Circulating or posting a statement specifically addressing military recruiting on campus	82%	4%	14%
7. Circulating or posting a letter from the dean stating the law school's position on military hiring policies	48%	2%	50%
8. Organizing a panel discussion or other event with GLBT attorneys discussing their careers	56%	8%	36%
9. Funding GLBT students to attend off-campus events or programming (e.g., Lavender Law)	55%	5%	40%
10. Facilitating a GLBT attorney-student mentoring program	15%	6%	79%
11. Establishing a Solomon Amendment task force (or similar group focused on ameliorative efforts)	33%	1%	66%
12. Sponsoring events with local GLBT advocacy organizations	42%	5%	52%
13. Displaying rainbow flags, "Safe Zone" signs, or other expressions of solidarity with GLBT students	50%	2%	48%
14. Submitting letters, editorials, or articles to local or national media outlets about the Solomon Amendment and military recruiting	20%	3%	77%
15. Funding one or more fellowships for summer or post-graduate work on GLBT issues	15%	3%	82%

continued

	Initiated prior to <i>FAIR v. Rumsfeld</i> decision	Initiated after <i>FAIR v. Rumsfeld</i> decision	Not a practice on our campus
16. Amending law school's nondiscrimination policy to specifically address military recruiting	50%	4%	46%
17. Lobbying or otherwise contacting members of Congress about the "Don't Ask, Don't Tell" policy	5%	3%	92%
18. Offering a class or seminar on "Sexual Orientation and the Law"	56%	4%	40%
19. Hosting, co-sponsoring, moderating, and/or participating in an event organized by the GLBT student organization	77%	4%	19%
20. Speaking at an academic or professional conference about military recruiting or the Solomon Amendment	19%	2%	79%
21. Serving as the faculty or staff advisor to the GLBT student organization	67%	2%	31%
22. Conducting a teach-in, debate, or panel discussion on "Don't Ask, Don't Tell"	45%	5%	50%
23. Circulating a petition or similar document expressing opposition to the Solomon Amendment	19%	3%	78%
24. Promoting faculty and staff outreach to GLBT students	68%	2%	30%
25. Including discussion or examination of Solomon Amendment or "Don't Ask, Don't Tell" policy in courses	37%	2%	61%

26. Other faculty or staff initiated actions or activities not referenced above (please describe):

Listed below are a variety of actions and activities some law students have instituted in response to the Solomon Amendment. For each of the practices listed below, please indicate whether the practice began before the *FAIR v. Rumsfeld* decision, happened for the first time since the decision, or is not a practice on your campus.

Student led responses and activities: (Use checkmarks to indicate the appropriate response for each item.)

	Initiated prior to <i>FAIR v. Rumsfeld</i> decision	Initiated after <i>FAIR v. Rumsfeld</i> decision	Not a practice on our campus
27. Promoting attendance at off-campus GLBT networking events or programming (e.g., Lavender Law)	81%	3%	16%
28. Organizing or sponsoring a panel discussion, teach-in, debate or other event on the Solomon Amendment and the "Don't Ask, Don't Tell" policy	53%	3%	44%
29. Staffing informational tables on military hiring and the Solomon Amendment	30%	8%	62%
30. Serving on a Solomon Amendment task force (or a similar group focused on ameliorative efforts)	27%	4%	69%
31. Drafting or circulating a petition or similar document expressing opposition to the Solomon Amendment	26%	4%	70%

continued

	Initiated prior to <i>FAIR v. Rumsfeld</i> decision	Initiated after <i>FAIR v. Rumsfeld</i> decision	Not a practice on our campus
32. Promoting widespread awareness of the Solomon Amendment among other students by:			
a. Making announcements in class	17%	3%	80%
b. Posting flyers around campus	47%	4%	49%
c. Distributing pins or stickers	32%	6%	63%
d. Using website, email, or other electronic communication	39%	6%	55%
e. Other: _____			
33. Protesting or picketing military recruiters on campus	25%	8%	67%
34. Attending or organizing an off-campus protest	15%	0%	85%
35. Disseminating information about recent surveillance of GLBT student groups by the Pentagon	5%	7%	88%
36. Lobbying or otherwise contacting members of Congress about the Don't Ask, Don't Tell policy	14%	6%	80%

37. Other student initiated actions or activities not referenced above (please describe):

38. Please use this space to tell us anything else that you feel is important or noteworthy about the response to the Solomon Amendment at your law school. It would be helpful if you would describe any additional ameliorative steps that your school has taken that are not captured above. Finally, if there was something new or different about the campus response this year in the wake of the Court's decision in *FAIR* that has not been captured in the questions above, please use this space to highlight that for us.

Demographic Information: To assist in grouping schools for analysis, please answer the following questions. Your school will not be identified by name or by any other distinguishing feature in any report of the findings of this survey.

39. In which NALP region is your school located?

Northeast **18%** Mid-Atlantic **14%** Southeast **25%** Midwest **23%** West/Rocky Mountain **22%**

40. How would you characterize your school's location?

Urban **65%** Suburban **22%** Rural **13%**

41. What is the size of your JD population?

0-500 **23%** 501-1000 **54%** 1001 or larger **23%**

42. Law school is:

Public/state-supported **36%** Private **64%**

43. Name of your law school (Optional): _____

Note: If you supply your school's name, it will be used only to contact you if there are questions about your survey response. Your school will not be identified by name or any other distinguishing feature in any report of the survey findings.

Please fax your completed survey to 202-835-1112 or mail it to: NALP, 1025 Connecticut Avenue NW, Suite 1110, Washington, DC 20036-5413.



APPENDIX B:

Sample Statements on Military Recruiting

This Appendix presents a sample dean's message on military recruiting and sample statements on military recruiting from several law schools. These statements were provided by schools at the time this Guide was compiled and may or may not represent the current statements of these schools. The sample statements are included to assist law schools as they formulate or update their own statements. These samples are not meant to substitute for the necessity of seeking the most current information on the Solomon Amendment and of seeking advice from law school administrators and from legal counsel as appropriate in the development of statements on military recruitment.

Sample Dean's Message, Golden Gate University School of Law, San Francisco, CA Military Recruiting at GGU This Week

As many of you know, last spring the US Supreme Court ruled in *FAIR v. Rumsfeld* that law schools are obliged to allow the military to recruit on their campuses or risk losing federal funding. Although the military's policy barring openly gay and lesbian individuals from serving in the armed forces is a violation of GGU's anti-discrimination policy, the University has determined that it has no choice but to allow military recruiters to participate in our fall recruitment program. Representatives from the Army, Navy, Air Force, and Marines will be on campus this Thursday, October 5, to interview students for employment opportunities with the JAG Corps. No other employer who would choose to discriminate against members of our student body would be allowed to use the resources of the Law Career Services Office. That we are compelled to allow them on campus by the threat of having our federal funds withdrawn should be of great concern to every member of our law school community. I encourage those of you with questions or feedback on

this decision to contact Susanne Aronowitz, Associate Dean for Law Career Services, or speak to me directly.

The School of Law has taken affirmative steps to ameliorate the presence of the military recruiters and their refusal to hire LGBT students. For example, in the past several years GGU has been a sponsor of the annual BALIF Dinner and the Pride Law Fund Golf Tournament. The School of Law has offered funding to students attending the Lavender Law Career Fair and Conference. A rainbow flag hangs outside the interview rooms when the military is on campus and flyers containing the Law Career Services Office's Statement on Military Recruiting are posted online and around the building. Students have staffed information tables to educate people about "Don't Ask, Don't Tell" and the military's discriminatory hiring practices. Last year GGU's Federalist Society and the American Constitution Society co-hosted a debate on the constitutionality of the Solomon Amendment featuring Professor Peter Keane and Boalt Hall Professor John Yoo. Angela Dalfen, Assistant Director for Public Interest and Student Leadership Programs, has recently been asked to Chair a NALP Work Group charged with creating a "best practices" guide to ameliorating the effects of military recruiting on law school campuses.

I regret that we must open our doors to employers who would refuse to hire any one of our students on the basis of sexual orientation alone and look forward to the day when the armed forces are open to all those who wish to serve.

Statement on Military Recruiting Cornell University School of Law, Ithaca, NY

Notice to the Law School Community

Cornell Law School is committed to a policy against discrimination in employment based on race, color, religion, national origin, ancestry, sex, sexual orientation, marital status, age, or handicap. The facilities of the Career Office may be denied to employers whose behavior contravenes our faculty policy prohibiting discrimination based on the above-listed factors. Visiting employers must sign a statement indicating compliance with this policy.

The military discriminates on the basis of sexual orientation, which is not permitted by Cornell Law School's nondiscrimination policy and the Association of American Law Schools bylaws. The Law School permits the military to interview on campus because of the loss of financial aid funds that would otherwise be imposed under the Solomon Amendment, and because the Law School is required to do so by Cornell University policy.

Statement on Military Recruiting

Santa Clara University School of Law, Santa Clara, CA

Law Career Services Non Discrimination Policy

Law Career Services accepts job postings and on-campus interview requests only from employers who agree to adhere to the following policy:

1. Santa Clara University does not discriminate on the basis of race, color, national, and/or ethnic origin, sex, marital status, sexual orientation, disability, religion, veteran's status, or age in the administration of any of its educational policies, admissions policies, scholarship and loan programs, athletics, or employment-related policies, programs and activities.
2. Santa Clara University School of Law, in accordance with the Association of American Law Schools bylaws, does not make the services of its Law Career Services available to employers who discriminate on the basis of race, color, national origin, sex, age, disability, or sexual orientation.

Although the United States military discriminates on the basis of sexual orientation, the School of Law makes its Law Career Services available to their recruiters under the compulsion of federal law, which prohibits funds by grants or contract (including student loans and Work-Study) to schools that have a policy or practice of denying access to military recruiters. Except for this sole involuntary departure from the Law School's nondiscrimination policy, the Law School's commitment to nondiscrimination stands.

Notice of Military Discrimination

The uniformed military discriminates on a basis not permitted by the bylaws of the Association of American Law Schools. The Law School amended its nondiscrimination policy to allow on-campus military recruiting only because of the loss of funds that would otherwise be imposed by federal legislation.

Statement on Military Recruiting

University of Iowa College of Law, Iowa City, IA

Summary of Major Events Affecting Military Recruitment at the University of Iowa College of Law

In the fall of 1988, the faculty approved a Policy on Equality of Opportunity in Recruiting and Employment Practices prohibiting use of College of Law facilities or services by employers who make recruitment or hiring decisions “on any basis contrary to law or unrelated to the legitimate requirements of prospective employment.”

The following year, the Placement Committee determined that policies of the federal armed services excluding persons from consideration for employment on the basis of sexual orientation were not legitimately related to job requirements. On the basis of that determination, military recruiters were not allowed to use College of Law facilities and services.

In 1990, the American Association of Law School independently adopted its own standards prohibiting discrimination in placement functions which also restrict the use of College of Law facilities and services by military recruiters.

In 1996, Congress enacted provisions (the “Solomon Amendment”) requiring the termination of various funds provided to educational entities (including certain forms of student financial aid) that do not allow access to placement services by military recruiters. The American Association of Law Schools subsequently concluded that the Solomon Amendment’s potentially serious financial consequences might excuse the provision of placement services to military recruiters by member schools if the adverse effects of such access were ameliorated by an express public disapproval of the military’s discrimination against gays and lesbians and the existence of an otherwise safe and protective atmosphere for gay and lesbian students.

In the fall of 1997, the Dean accepted and implemented a Placement Committee recommendation that military recruiters be allowed access to College of Law facilities and services to forestall the possibility of adverse financial effects estimated at between \$60,000 and \$500,000 per year. In conjunction with this action, the following resolution was adopted by the faculty:

The faculty of the College of Law reaffirms its commitment to the College’s nondiscrimination policy and to the University of Iowa’s Policy on Human Rights. Because the military services discriminate on the basis of sexual orientation, permitting recruiters from the military services to conduct interviews in the law building

violates our policy, contravenes the principles of the University of Iowa's human rights policy, and places the College in violation of Membership Bylaw 6-4 of the Association of American Law Schools.

Due to recent changes in federal law affecting receipt of federal funds, however, the dean of the College feels compelled to permit military recruiters access to the law building for the purpose of interviewing law students. In accordance with the College's nondiscrimination policy, the law faculty wishes to state publicly that discrimination on the basis of sexual orientation is not justified on the basis of the legitimate requirements of employment by the military as a lawyer.

We strongly encourage Congress to repeal the Solomon Amendment and to legislate affirmatively against discrimination on the basis of sexual orientation by the military.

This resolution shall be prominently displayed in the law building, circulated immediately to the entire student body of the College, and communicated to students on a regular basis thereafter. Full copies of all documents mentioned in this summary and other relevant materials are available for inspection in a binder shelved in the library alcove of the Office of Career Services.

Statement on Military Recruiting Northeastern University School of Law, Boston, MA

Northeastern University School of Law is firmly committed to providing equal opportunity for all students and has a longstanding policy of barring employers who discriminate on the basis of age, race, color, religion, sex, sexual orientation, national origin, disability, and other protected classes, from using Career Services facilities. Under the Solomon Amendment, the law school is being required to permit access to the military for recruiting purposes, even though the military has an official recruitment policy that is not consistent with the law school's anti-discrimination policy. The consequences of not complying with the Solomon Amendment are that the University would be deprived of access to research and other federal funds that are critical to the University's ability to function. Therefore, you should be aware that the law school is complying with the Solomon Amendment under protest and this compliance does not, in any way, reflect our acceptance of the discriminatory practices and policies of the military.

Statement on Military Recruiting

West Virginia University College of Law, Morgantown, WV

MEMORANDUM

West Virginia College of Law Nondiscrimination Policy and On-Campus Military Recruiting

The West Virginia University College of Law is committed to nondiscrimination and to its policy prohibiting discrimination on the basis of race, sex, age, disability, veteran status, religion, sexual orientation, color or national origin. To implement this policy for on-campus recruiting, the College of Law requires all employers to agree to comply with its nondiscrimination policy.

When military recruiters interview at the College of Law, however, they violate the nondiscrimination policy in that the military permits gay men, lesbians, and bisexuals to serve in the military only if such individuals neither disclose, nor act upon their sexual orientation. Thus permitting recruiters from the Armed Services to interview our law students is not consistent with our employer nondiscrimination policy.

The fact that these interviews occur does not mean that the College of Law has retreated in any way from its strongly held view that our gay, lesbian, and bisexual students should be able to seek any and every job for which they are qualified — and that they should be allowed to serve in those jobs with honesty, integrity, and pride. Federal law, specifically the Solomon Amendment, requires schools to provide the military with full access to students for recruitment purposes or risk termination of certain federal funds, even where such access contravenes a nondiscrimination policy.

We want to clarify that the College of Law is opposed to discrimination, not to military service. Generations of College of Law students and alumni have served in the military; many are serving today. We are proud of them and grateful to all the men and women of the Armed Services for the sacrifices they make to defend this nation. It is because we hold the military in such high regard that we believe it is especially important for all students to have equal access to the exceptional opportunities offered by the military to serve our country, particularly now when it is more important than ever for the military to recruit the most able men and women.

We at the College of Law cannot, alone, change the hiring policy of the Armed Services. We can and will, however, make clear our own opposition to discrimination through postings and through educational materials. We will support forums for discussion of the federal policy. And, we will continue to do all that we can to

assure our gay, lesbian, and bisexual students, staff and faculty that they are welcome and valued members of our community.

West Virginia University College of Law is committed to the principle that law is but a means, justice is the end. In a just world, there would be no discrimination on the basis of sexual orientation. We at the College of Law will continue to do all that we can to end this discrimination.

Statement on Military Recruiting Harvard Law School, Cambridge, MA

Harvard Law School does not discriminate against any person on the basis of race, color, creed, national or ethnic origin, age, gender, sexual orientation, marital or parental status, disability, source of income, military status or status as a Vietnam era or disabled veteran in admission to, access to, treatment in, or employment in its programs and activities. All employers using the facilities and services of the Office of Career Services must comply with this policy.

Harvard Law School makes one exception to this policy. Under threat of loss of funding to the University resulting from the Solomon Amendment, the Law School has suspended the application of its nondiscrimination policy to military recruiters. This exception to our policy does not in any way reflect acceptance of, or agreement with, discriminatory hiring practices.

Statement on Military Recruiting Georgetown University Law Center, Washington, DC

The policy of Georgetown University Law Center is to provide equal opportunity in its programs, activities, and employment practices; to prohibit discrimination in education and employment because of race, color, religion, national origin, sex, age, handicap or disability, or sexual orientation; and to prohibit sexual harassment.

Employers who use our career services are required to comply with our nondiscrimination policy. The US military does not comply with this policy. Nonetheless, the Law Center does permit the military to use our career services.

The sole reason for this exception is the Solomon Amendment, which as currently interpreted requires schools to give military recruiters access or risk the loss of all federal funds to the entire University.