

Weekly

H O N O L U L U

## Job safety: Akaka introduces bill to protect federal employees from sexual discrimination

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by Travis Quezon

In 1957, Frank Kameny was fired from his studies as an astronomer in Hawai'i by the Army Map Service. The reason? He was gay.

After his dismissal, Kameny became a crucial activist in the gay rights movement, and in the 1970s, he fought to have sexual orientation be granted Title 5-protection under U.S. law, which protects federal employees from discrimination. It was a battle he won.

However, it's a victory that Special Counsel Scott Bloch has apparently decided to ignore.

In 2004, Bloch was appointed by President George W. Bush to the Office of Personnel Management (OPM)—the guys who protect federal employees from retaliations against whistle-blowing and other forms of discrimination. At that time, Title 5 was still interpreted to prohibit discrimination based on sexual orientation.

However, one month after taking office, Bloch ordered that all references to his office having jurisdiction over complaints by federal workers alleging sexual orientation discrimination be scrubbed from the special counsel's website and its official publications.

And scrubbed they were. After nearly 30 years of protecting federal workers from sexual orientation discrimination, it was suddenly not in the office's interest to do so.

Federal employees like Michael Levine, a 32-year veteran of the Forest Service, who claims that he was suspended from his job in part because he is gay, saw his complaint ignored by the special counsel's office.

People took notice, and the OPM felt the heat. In response, Bloch issued a legal review of the discrimination statute and found that the Title 5 provision only protected against discrimination on sexual conduct, not sexual orientation. He said sexual orientation would only be protected in another section of Title 5, which protects employees from discrimination against race, gender, religion or marital status. The problem is, that section doesn't mention sexual orientation. Clever.

Without saying that he was against protecting the rights of employees regardless of sexual orientation, Bloch threw his critics a curveball, suggesting an interpretation of the law that didn't recognize sexual orientation.

Sen. Daniel Akaka, who chairs the federal employees committee, is looking to hit that curveball out of the ballpark.

Last week, Akaka introduced the Clarification of Federal Employment Protections Act to counter any possible misinterpretations of the statute that protects federal employees from discrimination based on sexual orientation. The bill seeks to clean up the language of the law and ensure that sexual orientation discrimination is something federal employees are protected against without question.

**It's laudable for Akaka to be leading the charge to address the chaos being created by Bloch, says Hans Johnson, board member of the National Gay and Lesbian Task Force and officer for the gay labor union Pride at Work, Washington, D.C. chapter.**

**"What many people don't realize is that discrimination based on sexual orientation is not illegal under federal statutes," Johnson says. "It's in part for that reason that the actions of Scott Bloch are so heinous. For three long years, Bloch has managed to roll back 30 years of progress in non-discrimination in the workplace."**

Bloch is currently under investigation for allegedly retaliating against whistle-blowing in his own office, issuing illegal gag orders and unfairly treating his own employees who are openly gay.

There's still a sense of fear for people in the workplace that there's no protection and people still get fired for being gay, says Steve Dinion a gay activist who is starting a Hawai'i chapter of Pride at Work. Hawai'i is one of only 13 states that bans discrimination based on sexual orientation and gender identity and expression.

Dinion recalls a controversy caused by the national food chain Cracker Barrel when management fired at least 11 gay workers. The down-home restaurant even had a policy that required employees to display "normal heterosexual values which have been the foundation of families in our society," according to gay activist group Human Rights Campaign.

"[Anti-discrimination laws] are only as good as the enforcement of it and the people's willingness to take it on," Dinion says.

While the Clarification of Federal Employment Protections Act is a step in the right direction, Dinion says that stronger gay rights bills like the Employment and Nondiscrimination Act (ENDA) would address a broader scope of problems if it were passed.

ENDA goes further, prohibiting public and private employers from using sexual orientation as the basis for employment decisions. In its current form, the bill also provides protection against gender identification discrimination, something the federal employee protection statute fails to mention. ENDA is cosponsored by 104 representatives including Hawai'i Reps. Neil Abercrombie and Mazie Hirono.