



Military Recruiting: Ameliorative Steps for Law Schools

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OBJECTIVES

- ❖ Military Recruiting: General Overview
- ❖ Who are the Players & What do They say about this Issue
- ❖ Ameliorative Steps: Examples
- ❖ Resources on the Issue

What We Won't Cover

- No in Depth Debate on the Solomon Amendment
- Focus on Reaction (*Amelioration*) and Not the Cause (Solomon Amendment)

What does “amelioration” mean?

Webster's Dictionary defines amelioration as:

“to make better or more tolerable”

So we know we have to make
this situation “better or more
tolerable”

HISTORY

GLBT Persons in the Military?

- ✓ Currently: No
- ✓ Department of Defense prohibits openly gay persons from serving in the military
- ✓ Current policy is “Don’t Ask, Don’t Tell”

“Don’t Ask, Don’t Tell”

- ✦ Gays and lesbians can serve in the military as long as they don’t reveal their sexual orientation
- ✦ Can’t be “openly gay” and serve
- ✦ Heterosexuals don’t have similar nondisclosure requirements
- ✦ Therefore, the military discriminates

AALS Bylaw 6-4 & Regulation 6.19

- ✦ In 1990, AALS adds “sexual orientation” to its non-discrimination policy (Bylaw 6-4)
- ✦ Reg. 6.19 requires employers who recruit at law schools to provide written assurances that they don’t discriminate against any classes listed in Bylaw 6-4, including “sexual orientation”

Military Can't Comply with Reg. 6.19

- Due to "Don't Ask, Don't Tell," the military can't comply with Bylaw 6-4 and Regulation 6.19
- AALS required that military be barred from campus recruiting
- Gov't response: If military barred from campus, federal funding to the law school will be cut (just the law school)

AALS Response

- In 1997, the AALS amended policy to excuse law schools' non-compliance with Bylaw 6.4 (can't discrim based on "sexual orientation") as long as law school fulfilled a "duty to ameliorate" the effects of the military's presence on campus
- In 1999, student financial aid was exempted from funding that could be taken away, so AALS again requires 6.4 compliance (can't discrim based on "sexual orientation"); military barred

Dept. of Defense Response

- ☀ Dept of Defense reinterpreted the Solomon Amendment to threaten not only law school funding (exempting financial aid), but ALL funding at that university (*entire university*)
- ☀ AALS goes back to excusing law school non-compliance with Bylaw 6-4 as long as there is “amelioration”

Review of History

- ❖ **1990:** AALS adds sexual orientation to non-discrim policy
 - Military can't comply w/ AALS policy; AALS requires military barred
 - Gov't holds all law school funding
- ❖ **1997:** AALS excuses 6.4 compliance; military allowed on campus
- ❖ **1999:** Financial Aid exempted; AALS requires 6.4 compliance
 - D of D responds that *all* college funding can be taken away
 - AALS again exempts 6.4 compliance
- ❖ **2004:** ROTC Military Recruiter Equal Access to Campus Act of 2004



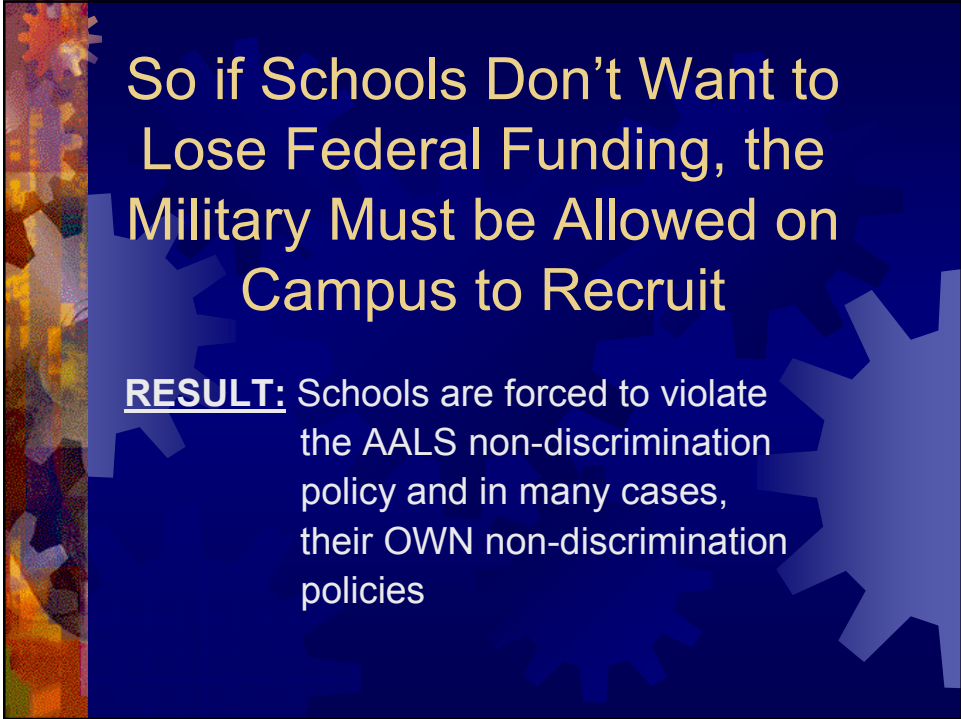
March 30, 2004

- House of Representatives passed the “ROTC Military Recruiter Equal Access to Campus Act of 2004”
- Passed in reaction to the lawsuits challenging the military recruiting issue (from Yale and Penn Law Schools)
- Requires schools to treat the military just like every other employer or face even stiffer penalties
- Places into federal law what now exists as Dept of Defense Regulations (Solomon Amendment)



ROTC Military Recruiter Equal Access to Campus Act of 2004

- ✓ Approved by the House Armed Services Committee
- ✓ Approved by the House of Representatives
- ✓ What will the Senate do???????



So if Schools Don't Want to Lose Federal Funding, the Military Must be Allowed on Campus to Recruit

RESULT: Schools are forced to violate the AALS non-discrimination policy and in many cases, their OWN non-discrimination policies



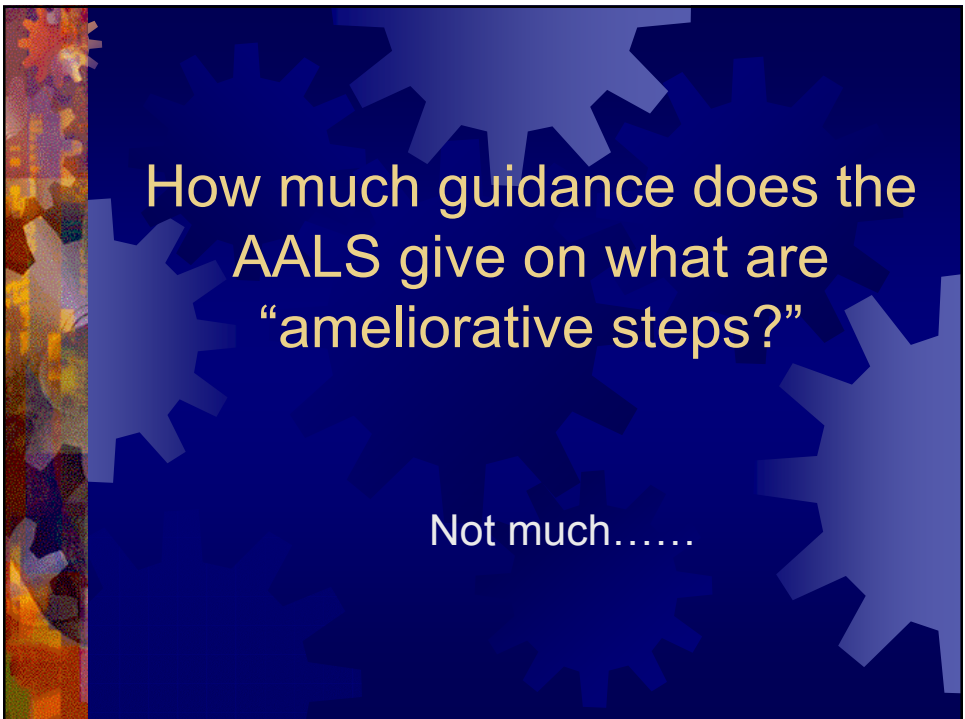
Considerations:

- ✦ Some students want to work with the military, and isn't it our job to present options and information without judgment?
- ✦ Patriotic wave after the 9/11 tragedy
- ✦ Backlash against GLBT students if seen as unpatriotic



We don't want to lose funding
or isolate our GLBT students,
so what do we do?

We allow military recruitment and
we "ameliorate!"



How much guidance does the
AALS give on what are
"ameliorative steps?"

Not much.....

AALS & Amelioration

Requirement:

Post a notice that the military's practices regarding sexual orientation discrimination are inconsistent with the law school's non-discrimination policy pursuant to Bylaw 6.4

Posting a "sign" isn't enough...

Without telling us what *are* "ameliorative steps," the AALS instead tells us what *aren't* "ameliorative steps"

What aren't "ameliorative steps?"

1. **Pro Forma Activities:** Likely to go unnoticed by substantial part of students; standing alone, won't have an impact
2. **Ad Hoc Activities:** Not part of deliberate planning process; unlikely to have long-term positive impact
3. **Student-Driven Activities:** Burden on the students to raise issues

What can be done?

- ☀ Amelioration
- ☀ Remember, "amelioration" is defined as....

"to make better or more tolerable"

In the real world, what does that mean?

What are “ameliorative steps?”

What are “ameliorative steps?”

- ✓ Survey says.....
- ✓ 79 surveys were sent out and 32 responses received
- ✓ Handout outlines the responses received
- ✓ Focus on answers to Question 5

Q-5: Describe what ameliorative steps your school takes

Written Materials

1. Post notices around campus regarding the issue of military discrimination, including law school's own non-discrimination policy
2. Military representatives were given article authored by Dean (former head of Navy JAG Program) re: military discrimination
3. Letter/Memo from the Dean to all students regarding military recruiting

Q-5: Describe what ameliorative steps your school takes

Written Materials (con't)

4. Non-discrimination materials included in OCIP packets to employers and students
5. Resource binder on GLBT issues
6. Publish supplement to school newspaper regarding military discrimination

Q-5: Describe what ameliorative steps your school takes

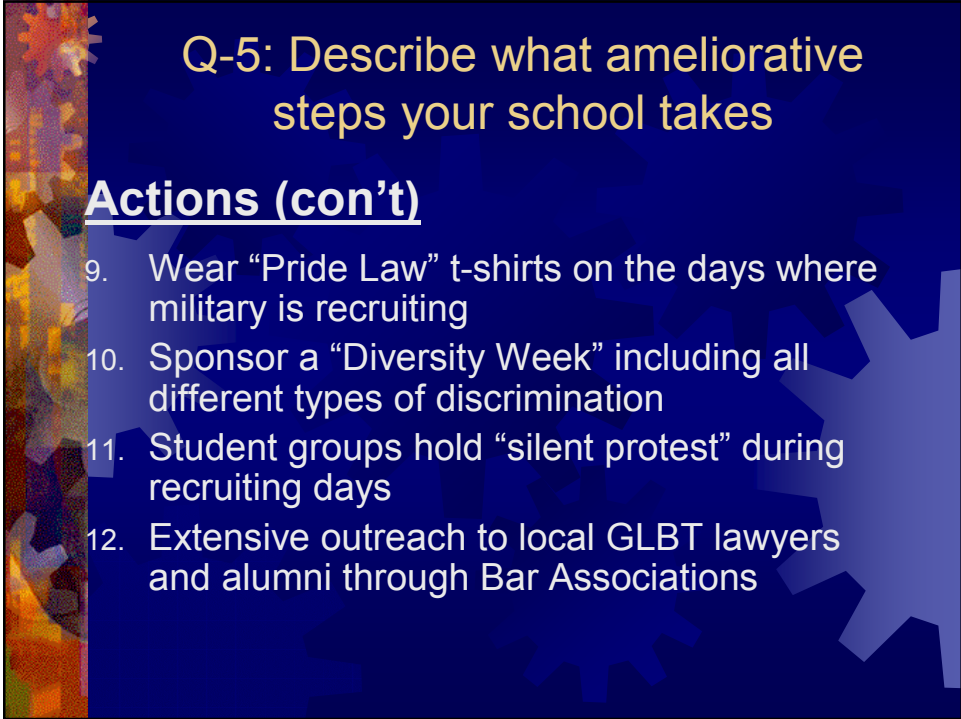
Actions

1. Co-sponsor events with GLBT student group
2. Law school diversity committee appointed
3. Frequent meetings with GLBT student group
4. Dean of law school joined SALT lawsuit against military
5. Military recruiters only allowed on campus after main OCIP has concluded

Q-5: Describe what ameliorative steps your school takes

Actions (con't)

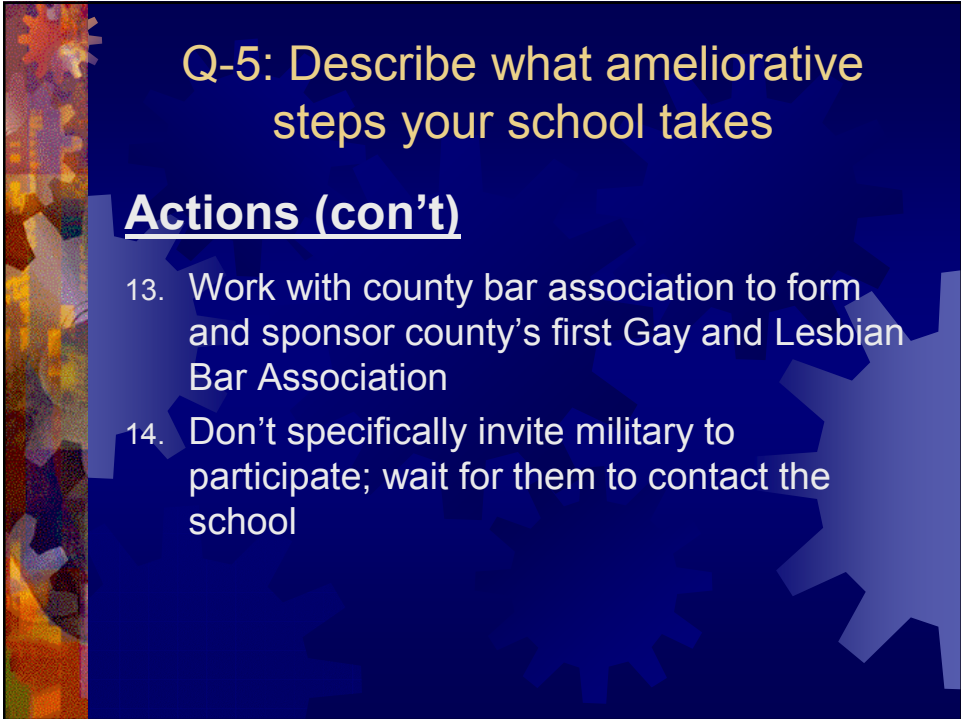
6. Amend non-discrimination policy to explicitly include language regarding military recruitment
7. If no general amended non-discrim policy, use amended policy just on OCIP/CSO materials
8. Sponsor programming regarding GLBT issues in the workplace



Q-5: Describe what ameliorative steps your school takes

Actions (con't)

9. Wear "Pride Law" t-shirts on the days where military is recruiting
10. Sponsor a "Diversity Week" including all different types of discrimination
11. Student groups hold "silent protest" during recruiting days
12. Extensive outreach to local GLBT lawyers and alumni through Bar Associations



Q-5: Describe what ameliorative steps your school takes

Actions (con't)

13. Work with county bar association to form and sponsor county's first Gay and Lesbian Bar Association
14. Don't specifically invite military to participate; wait for them to contact the school

Q-5: Describe what ameliorative steps your school takes

Events

1. Purchase tables/tickets to local GLBT Bar Association events and give to students
2. Sponsor/send law students to the Lavender Law Conference
3. Encourage law students to attend Lavender Law Conference

Before we talk about other
“Resources,”

DID WE MISS ANYTHING?

**WHAT DOES YOUR
SCHOOL DO?**

Other Resources for Guidance

1. SALT Checklist
2. “Due Justice: Amelioration for Law School Compliance with the Solomon Amendment, a Handbook for Law Schools” [Georgetown University Law Center]
3. Servicemembers Legal Defense Network

Society of American Law Teachers (SALT)

- ✦ In 2001, SALT authored a “checklist” of ameliorative steps that law schools can use
- ✦ Five main categories with action suggestions under each

SALT: Category 1

Provide Conspicuous Notice of “Zero-Tolerance” for Unlawful Discrimination in Every Facet of Law School Life, Especially During Military Recruitment Visits

Provide Conspicuous Notice of “Zero-Tolerance” for Unlawful Discrimination in Every Facet of Law School Life, Especially During Military Recruitment Visits

1. Post school’s non-discrimination policy
2. Include non-discrim policy in all literature
3. Respond to all incidents of discrim/hate
4. Provide contact information to applicants and alumni re: sexual minority legal community
5. Include sexual orientation info in Orientation & programs

SALT: Category 2

Sponsor Academic and Community On-Campus Events to Explain and Promote Nondiscrimination as Institutional Policy and Social Practice, and Schedule These Events Around Military Recruitment Visits to Help Offset Military Discrimination

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1. Sponsor programming and lectures
2. Sponsor “teach-ins”
3. Offer courses like “Sexual Orientation and the Law” taught by full-time faculty
4. Expand library holdings
5. Send annual reminders re: resources
6. Faculty include relevant issues in lectures

SALT: Category 3

Create and Publicize New Placement Opportunities and Mechanisms Geared Specifically To Supporting Sexual Minority Students, and Hold Special Placement Events During Military Recruitment Visits, to Offset the Military's On-Campus Discrimination

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1. Develop employment opportunities specifically for GLBT students
2. Allocate resources to send students to job fairs, like Lavender Law Conference
3. Sponsor gay friendly job fairs
4. Maintain list in CSO of gay friendly employers
5. Organize resume packets to gay friendly employers
6. Organize alumni network
7. Sponsor social events with local legal community

SALT: Category 4

Lend Institutional Support Publicly and Proactively to Nondiscrimination Legal Initiatives and Social Reforms Locally, Regionally and Nationally

Lend Institutional Support Publicly and Proactively to Nondiscrimination Legal Initiatives and Social Reforms Locally, Regionally and Nationally


1. Actively educate local community re: discrimination
2. Encourage faculty to be active re: discrimination
3. Support non-discrimination efforts
4. Be active in overturning military's policies

SALT: Category 5

Vigorously Implement Your Formal Commitment to Nondiscrimination on a Long-Term and Proactive Basis in All Law School Programs, Policies and Settings

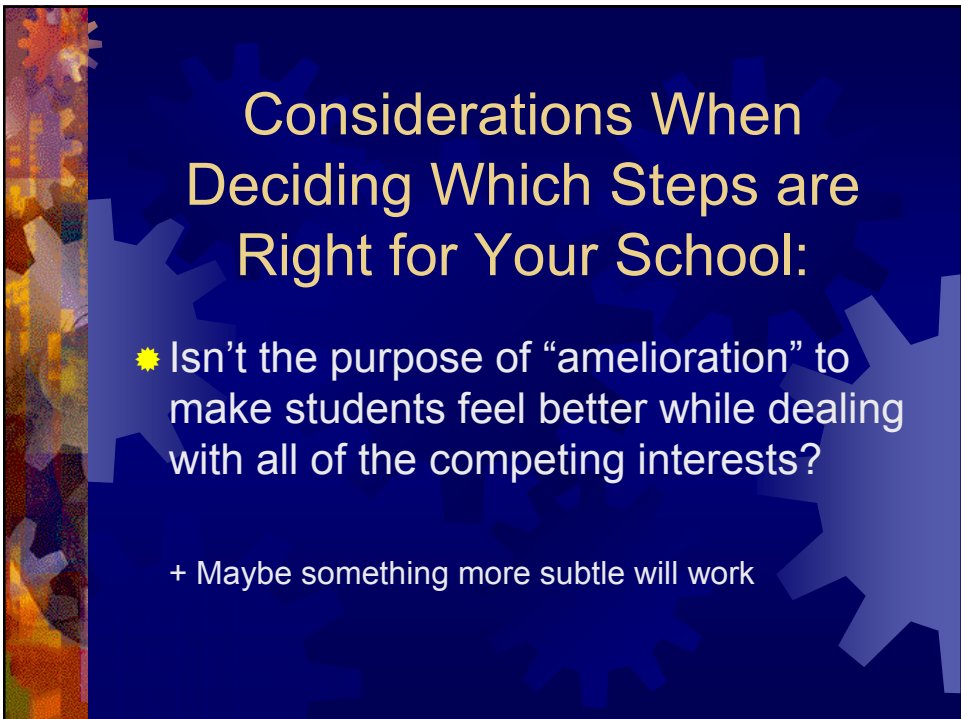
Vigorously Implement Your Formal Commitment to Nondiscrimination on a Long-Term and Proactive Basis in All Law School Programs, Policies and Settings

1. Establish a “Task Force”
2. Appoint a “Task Force” Ombudsperson to monitor issues
3. Generate annual “Task Force” Report
4. Establish process to implement Report’s recommendations
5. Use Orientation to enhance commitment to non-discrimination



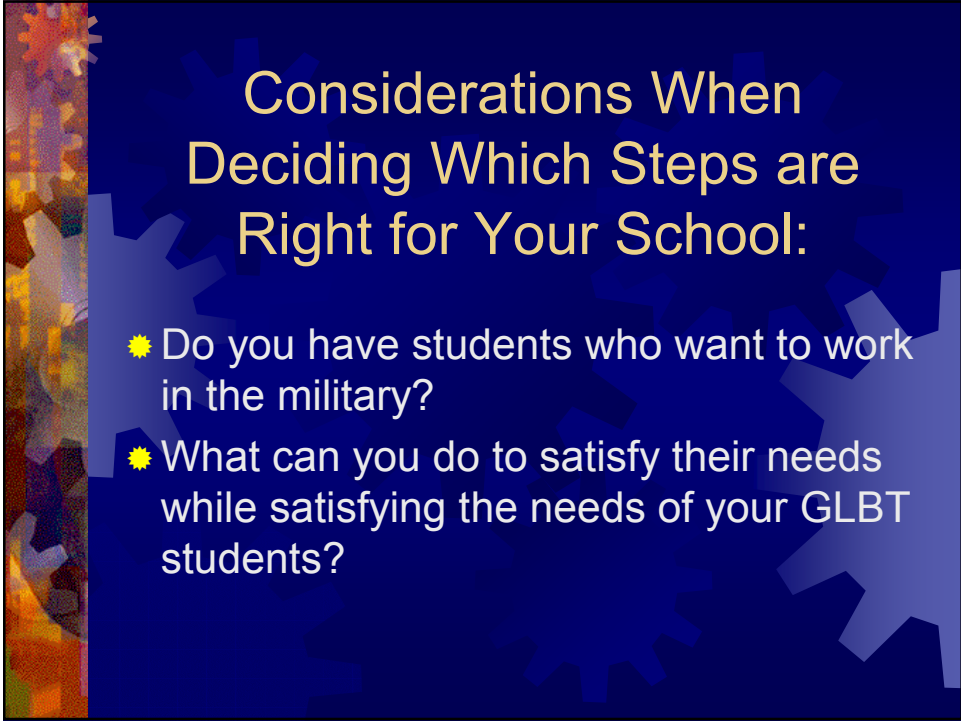
Considerations When Deciding Which Steps are Right for Your School:

- Who are the interested student groups?
 - + There may be more than just GLBT students who are interested in remedying discrimination
 - + Survey showed that majority of GLBT student groups contained non-GLBT students




Considerations When Deciding Which Steps are Right for Your School:

- Isn't the purpose of "amelioration" to make students feel better while dealing with all of the competing interests?
 - + Maybe something more subtle will work



Considerations When Deciding Which Steps are Right for Your School:

- Do you have students who want to work in the military?
- What can you do to satisfy their needs while satisfying the needs of your GLBT students?



What other considerations are there when deciding which steps are right?

Group Discussion

RESOURCE #2

Due Justice Amelioration for Law School Compliance with the Solomon Amendment A Handbook for Law Schools

Chai Rachel Feldblum, Professor, Georgetown University Law Center

Michael Boucai, Public Interest Law Scholar, Georgetown University Law Center

Three Types of Responses

1. Administrative Response
2. Faculty Response
3. Law Student Response



Administrative Response #1: “Notice”

1. Conspicuous notice of zero-tolerance for discrimination
2. Circulation of a letter from the law school Dean
3. Organization of programming to coincide with military visits



Administrative Response #2: Scheduling

1. Coordinate military visits well in advance
2. Provide advance notice to the law school community
3. Establish a Solomon Amelioration Task Force



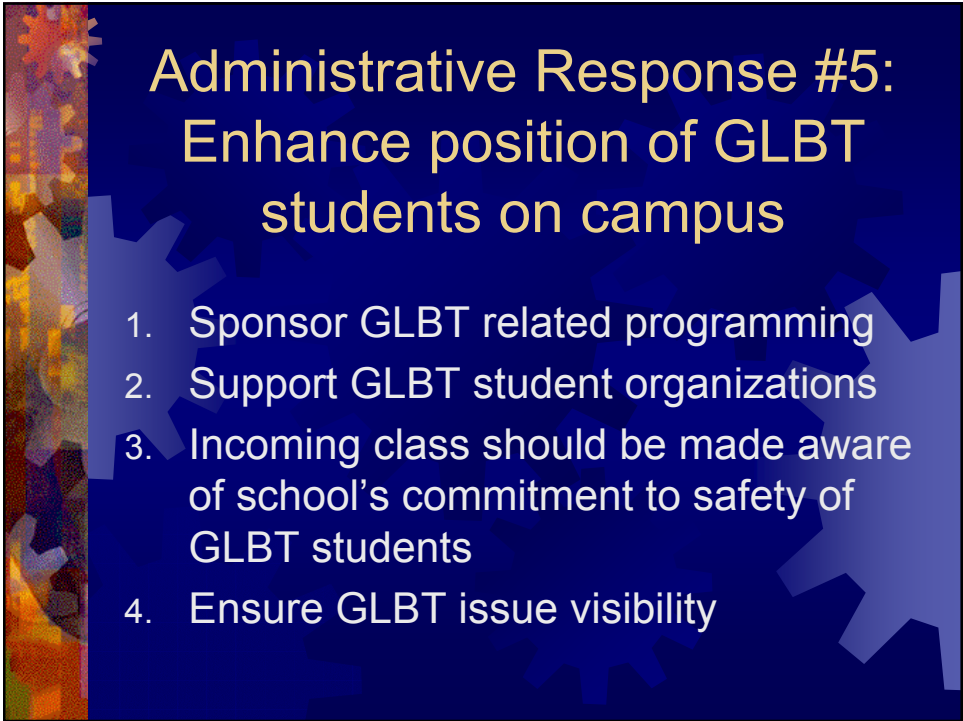
Administrative Response #3: Support Protests

1. Approve funding for protesting organizations
2. Support “teach-ins” on Solomon Amendment and “Don’t Ask, Don’t Tell”
3. Attend the protests and the “teach-ins”



Administrative Response #4: CSO Efforts

1. Mentor program for GLBT students
2. Send GLBT students to networking functions
3. Provide students with information re: employers’ non-discrim policies



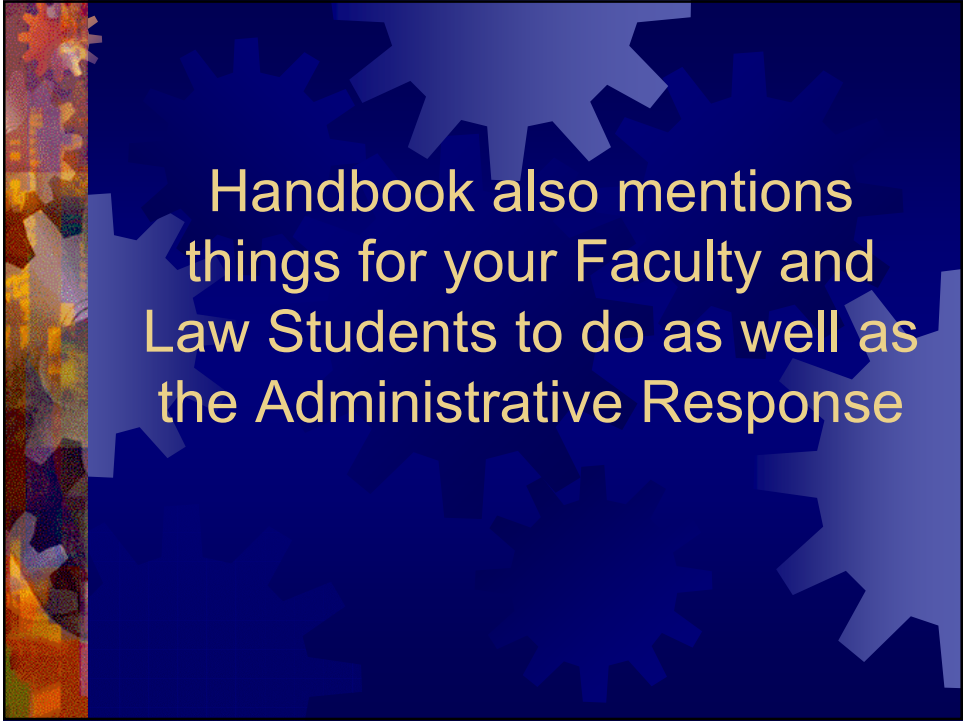
Administrative Response #5: Enhance position of GLBT students on campus

1. Sponsor GLBT related programming
2. Support GLBT student organizations
3. Incoming class should be made aware of school's commitment to safety of GLBT students
4. Ensure GLBT issue visibility



Administrative Response #6: Form "Task Force"

1. Chaired by faculty member reporting to Dean
2. Formulate amelioration responses/policy
3. Author an annual report



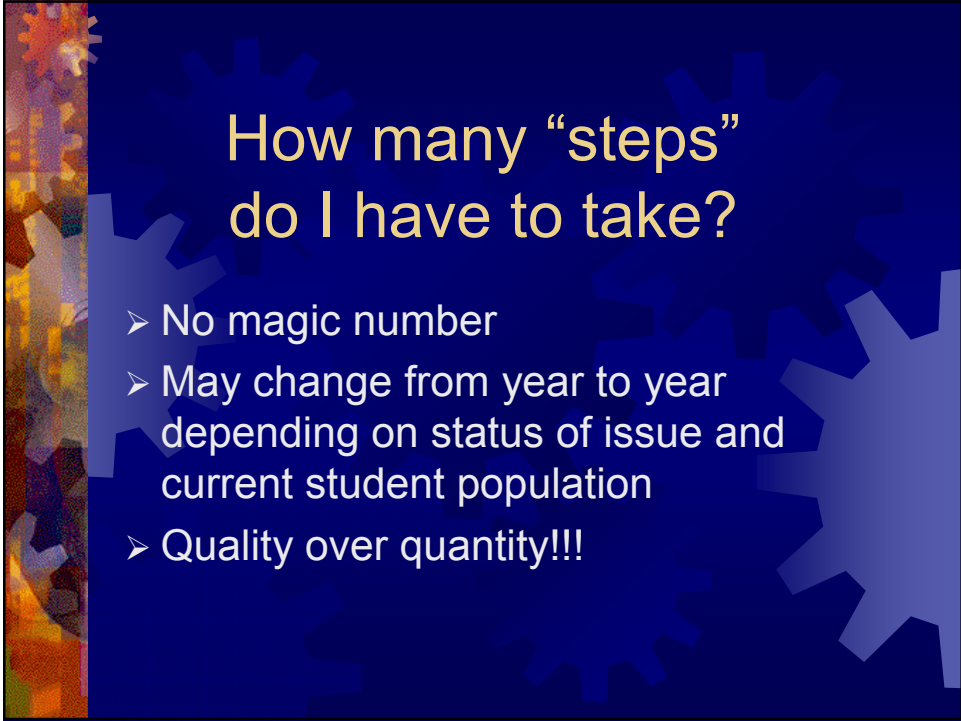
Handbook also mentions
things for your Faculty and
Law Students to do as well as
the Administrative Response



Other Source of General
Information:

Servicemembers Legal Defense Network

www.sldn.org



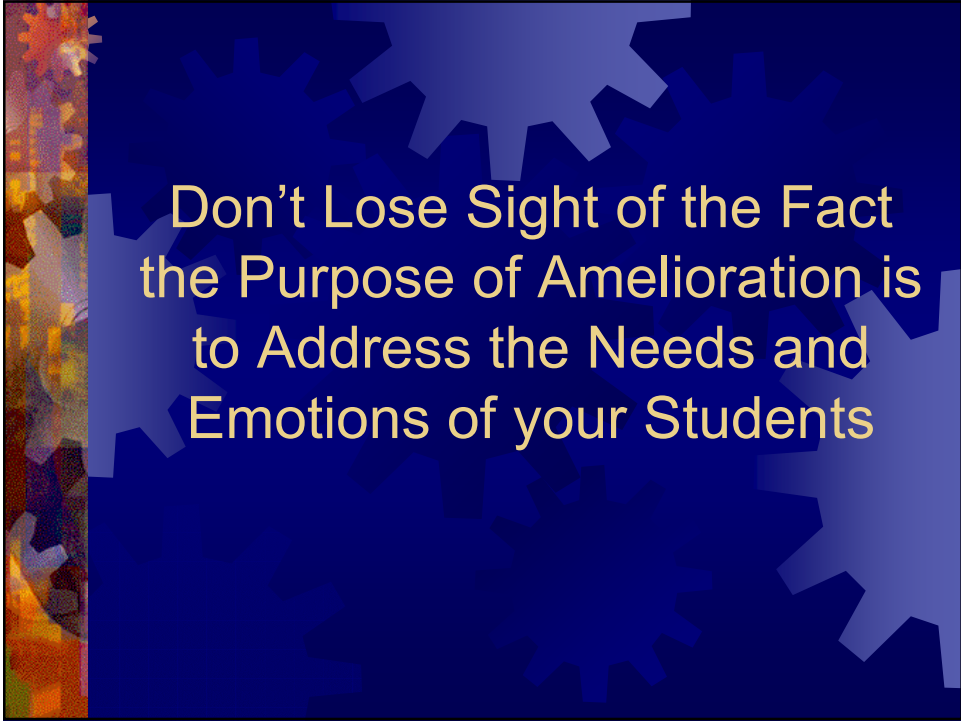
How many “steps” do I have to take?

- No magic number
- May change from year to year depending on status of issue and current student population
- Quality over quantity!!!

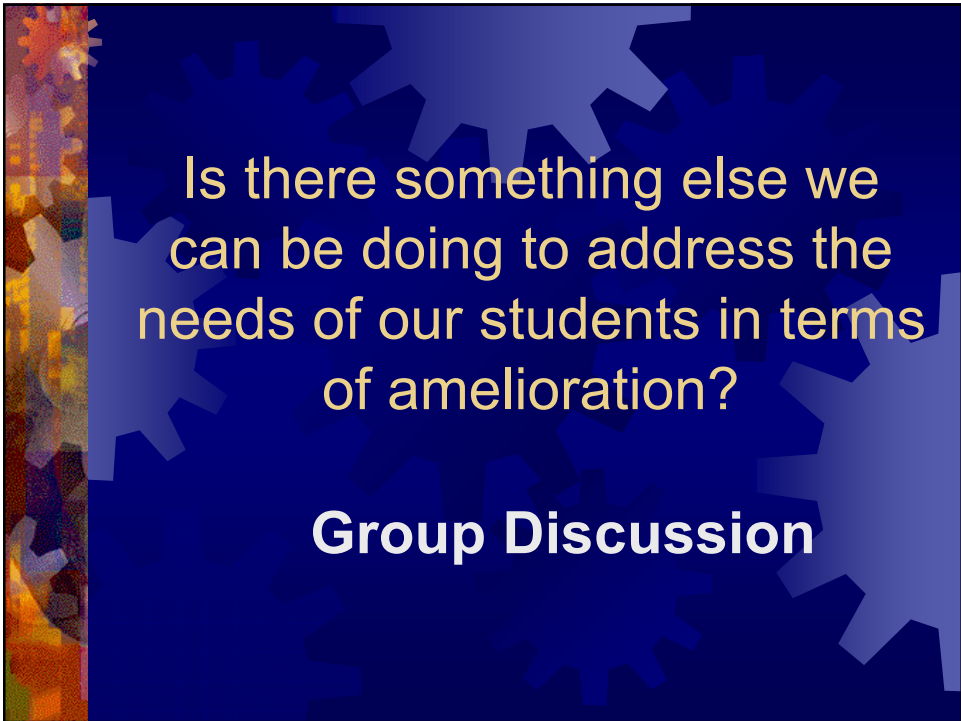


What did my students at Southwestern want?

- Recognition that this is an issue
- Administrative support
- Someone to listen
- Thankful for sending students to Lavender Law
- To be taken seriously



Don't Lose Sight of the Fact
the Purpose of Amelioration is
to Address the Needs and
Emotions of your Students



Is there something else we
can be doing to address the
needs of our students in terms
of amelioration?

Group Discussion



Building Stronger Ties to Your Local GLBT Bar and Community

- ❖ List of Potential Contacts
- ❖ Contact your local/county Bar Association
- ❖ Contact your local Gay and Lesbian Center
- ❖ Check with your own GLBT student organization (often in touch with recent alumni)



Why Build Stronger Ties?

- ✓ Mentor relationships
- ✓ Possible speakers (amelioration effort)
- ✓ Reaching out to the community to let them know you are trying to create an “inclusive” atmosphere

Objective #1: Military Recruiting: General Overview

History of the Solomon Amendment ✓

“Don’t Ask, Don’t Tell” Policy ✓

Where the issue might be headed
[ROTC and Military Recruiter
Equal Access Act of 2004 (H.R. 3966)] ✓

Objective #2: Who are the “Players” in our Drama & What do They Say

Department of Defense ✓

AALS ✓

Suggestions from SALT ✓

Suggestions from Georgetown ✓

Suggestions from Survey ✓

Objective #3: Examples of Ameliorative Steps

- AALS Requirements ✓
- Survey of ABA law schools ✓
- SALT Suggestions ✓
- Suggestions from Professor Feldblum ✓

Objective #4: Resources

- Handouts ✓
- Websites ✓
- Building stronger ties to your local GLBT Bar and community ✓



Survey

Military Recruiting on Campus: Ameliorative Steps for Law Schools

Please answer the following questions to the best of your abilities and return this Survey in the enclosed self- addressed, pre-paid envelope.

- 1) Does your law school have a GLBT (Gay, Lesbian, Bisexual, and Transgender) student group on campus? **Yes** **No**
- 2) Is this student group officially recognized by the law school? **Yes** **No**
- 3) If your law school has such a group, to your knowledge, does it include non-GLBT students? **Yes** **No**
- 4) Does your law school take any steps to ameliorate the presence of military recruiters on campus? **Yes** **No**
- 5) Using the back of this Survey, please describe those steps. (If necessary, please attach an additional sheet of paper.)
- 6) Does any member of the Career Services Office meet with your GLBT student group to discuss the presence of the military on campus? **Yes** **No**

7) In which NALP region is your school located?

Northeast **Mid-Atlantic** **Southeast**

Midwest **West/Rocky Mountain**

8) Name of your Law School (Optional): _____

9) Comments: _____

Survey (Responses)

Military Recruiting on Campus: Ameliorative Steps for Law Schools

Please answer the following questions to the best of your abilities and return this Survey in the enclosed self- addressed, pre-paid envelope.

- 1) Does your law school have a GLBT (Gay, Lesbian, Bisexual, and Transgender) student group on campus? **Yes-29; No-3**
- 2) Is this student group officially recognized by the law school?
Yes-28; No-0; No Reply-4
- 3) If your law school has such a group, to your knowledge, does it include non-GLBT students? **Yes-20; No-0; No Reply-12**
- 4) Does your law school take any steps to ameliorate the presence of military recruiters on campus? **Yes-27; No-4; No Reply-1**
- 5) Using the back of this Survey, please describe those steps.
(If necessary, please attach an additional sheet of paper.)
Results presented in seminar
- 6) Does any member of the Career Services Office meet with your GLBT student group to discuss the presence of the military on campus? **Yes-16; No-10; No Reply-6**
- 7) In which NALP region is your school located?

Northeast-7 Mid-Atlantic-3 Southeast-5

Midwest-3 West/Rocky Mountain-14

8) Name of your Law School (Optional): _____

9) Comments: _____