



6 Questions for Mitt Romney on Gay and Transgender Equality

Candidate Needs to Get Specific on Policies that Support These Americans

Crosby Burns and Jeff Krehely August 2012

Earlier this summer the Center for American Progress Action Fund documented how a Mitt Romney presidency would spell disaster for gay and transgender Americans and their families.¹ Gov. Romney has made it clear that he would vigorously defend the Defense of Marriage Act, or DOMA, which prevents the federal government from recognizing the legal marriages of same-sex couples and often forces them to pay higher taxes than their straight counterparts as a result. A President Romney would not support a federal workplace nondiscrimination law that includes sexual orientation and gender identity, continuing to leave many workers vulnerable to rampant discrimination on the job. And under a President Romney, gay and transgender youth would likely find little help from the federal government when it comes to bullying and harassment in our nation's schools.²

This analysis was based on actions Mitt Romney took as the governor of Massachusetts, as well as public statements he's made since he started running for president several years ago. The results of the analysis are in stark contrast to Gov. Romney's statement last year when he said, "I favor gay rights."³

Indeed, with respect to federal policies related to relationship recognition, workplace equality, and bullying, we can be fairly certain that he does not, in fact, favor gay rights. But for other gay and transgender equality issues, Gov. Romney has either remained silent or offered vague support for laws and policies that level the playing field for these Americans and their families. This lack of specificity is a hallmark of Gov. Romney's campaign for the presidency and is not unique to gay and transgender issues.⁴

To see if Gov. Romney has any clear policy positions that back up his claim of supporting gay rights, we would like the candidate to answer the following six questions.

1. What policies would you support to help workers with same-sex partners legally access the same benefits as workers who are married to someone of the opposite sex?

Currently, workers with same-sex partners or spouses do not have equal access to the same workplace benefits afforded to employees with different-sex spouses. These benefits include health insurance, life insurance, access to retirement and pension plans, and other benefits that are a critical component of employee compensation and family economic security.⁵

For his part, Gov. Romney has repeatedly stated that he supports extending certain benefits to workers with same-sex partners. As a candidate for governor of Massachusetts in 2002, he argued, “Domestic partnership status should be recognized in a way that includes the potential for health benefits and rights of survivorship.”⁶ In 2003 he asserted, “We must provide basic civil rights and appropriate benefits to nontraditional couples.”⁷ And just this year Gov. Romney stated that his “view is that domestic partnership benefits, hospital visitation rights and the like are appropriate but that the others are not.”⁸

He has not expanded on what “the like” and “the others” actually entail, however.

For all his talk, Gov. Romney has yet to declare support for a single proposed law or policy that would extend benefits to workers with a same-sex partner. And it’s not for a lack of available options. There are two bills currently pending in Congress and an existing set of benefits that Gov. Romney could say he supports (or opposes) to bring clarity to his position on workplace benefits for same-sex partners. These bills and benefits are:

- **Domestic Partnership Benefits and Obligation Act.** Federal government employees with same-sex partners cannot access the same spousal benefits currently made available to employees with opposite-sex spouses. This bill proposes to extend equal workplace benefits to federal employees and their same-sex partners.⁹ *Would Mitt Romney endorse this legislation and sign it into law if passed?*
- **Tax Parity for Health Plan Beneficiaries Act.** In an effort to recruit the best and the brightest, many businesses offer equal health benefits to workers with same-sex partners. For opposite-sex married couples, the dollar value of these benefits is not subject to payroll taxes, which essentially helps keep the benefits less expensive. But due to DOMA, these benefits are taxed as income for both the employee and the employer when a same-sex couple receives them.¹⁰ This bill would eliminate this discriminatory tax. *Would Mitt Romney endorse this legislation and sign it into law?*
- **Existing federal benefits.** President Barack Obama has twice instructed federal agencies to extend the full range of workplace benefits to same-sex partners of federal employees that are available under current law.¹¹ While this does not include the most critical policies such as health, dental, and retirement benefits, it includes other important benefits

such as relocation and child care assistance. *Would Mitt Romney continue to ensure these benefits are extended to the same-sex partners of federal employees or would he rescind them?*

Gov. Romney knows that an equal workforce is a profitable workforce. That's why the company he founded, Bain Capital, offers equal benefits to employees and their same-sex partners.¹² This is also why 85 percent of Fortune 100 companies offer equal partner benefits to their gay employees.¹³ The question for Romney then is this: *If equal benefits are a "best practice" in corporate America, how exactly would he fight for and adopt these practices as president?*

2. As president, which policies would you and your administration support to help end workplace discrimination against gay and transgender workers?

Gov. Romney has an ambiguous history when it comes to laws that prohibit discrimination against gay and transgender workers. As a candidate for Senate in 1994, Gov. Romney enthusiastically supported the Employment Non-Discrimination Act, or ENDA, a bill that would make discrimination based on sexual orientation illegal under federal law (the current version would also make discrimination based on gender identity illegal).¹⁴ Mitt Romney's support for ENDA is warranted. Research and data show that gay and transgender individuals experience high rates of discrimination on the job including not being hired or being fired based on their sexual orientation or gender identity.¹⁵

But Gov. Romney quickly backtracked on his commitment to nondiscrimination as he set his sights on the White House and began facing increasing scrutiny from nationally known, socially conservative Republicans. As a result, he no longer supports a federal ENDA, noting that he believes that this is an issue best left up to the states, and that a federal law would "open a litigation floodgate" (a myth that has been thoroughly debunked).¹⁶

In other words, Gov. Romney thinks it's perfectly OK for gay and transgender people to be fired simply because of their sexual orientation and gender identity if that is what their state representatives decide is best.

But while he opposes a federal law, Mitt Romney has also said, "My record, my life, is a clear indication of my support and insistence on anti-discrimination and on efforts to assure equal rights for all."¹⁷ Gov. Romney also knows that workplace discrimination undermines a business's bottom line by forcing out or not hiring qualified workers, diminishing workplace productivity, and opening that business up to potentially costly litigation.¹⁸ These are some of the reasons why Bain includes sexual orientation and gender identity in its nondiscrimination policy.¹⁹

So if not ENDA, how would Romney demonstrate his “support” and “insistence” for nondiscrimination in the workplace? In other words, *what other policies would he support and fight for as president to combat discrimination against gay and transgender workers?*

In addition to legislation, for example, a President Romney could leverage his authority as the “CEO” of the federal government by issuing an executive order barring federal contractors from discriminating on the basis of sexual orientation and gender identity. Presidents from both political parties have advanced nondiscrimination by issuing similar orders on the basis of race, color, sex, national origin, and religion. Given that 26 million people—or 22 percent of the civilian workforce – work for a company that does business with the federal government, an executive order barring contractors from discriminating against gay and transgender workers would be a monumental step toward making the workplace equal for all Americans.²⁰

R. Clarke Cooper, president of the Log Cabin Republicans—a Republican organization advocating for gay and transgender equality—seems to think that Gov. Romney may very well issue an executive order that does just that.²¹ If elected, Gov. Romney could indeed demonstrate his support for nondiscrimination by signing this executive order on Day 1. *Would a President Romney sign a nondiscrimination order for federal contractors?*

Beyond the executive order, there are millions of Americans working for the federal government itself, which is the largest employer in the United States.²² In 1998 President Bill Clinton issued an executive order to prohibit discrimination in federal employment on the basis of sexual orientation.²³ In 2010 President Obama took similar action to prohibit discrimination based on gender identity in federal employment.²⁴

Would Mitt Romney strip sexual orientation and gender identity from the federal government’s Equal Employment Opportunity, or EEO, policy? If he keeps them in the EEO policy, would his administration actively address complaints of sexual orientation and gender-identity discrimination within the federal government? Or would his administration instead ignore those complaints and let discrimination go unchecked?

3. Would you halt the Pentagon’s current efforts to extend benefits to members of the military with same-sex partners?

The military’s discriminatory policy banning openly gay soldiers from serving their country known as “Don’t Ask, Don’t Tell” was repealed in 2010. Repeal went into effect last September and gay men and women can now serve their country openly, honestly, and for the first time, without punishment.

In 1994 Mitt Romney offered his support for open service declaring that he is “convinced that [the “Don’t Ask, Don’t Tell” policy] is the first of a number of steps that

will ultimately lead to gays and lesbians being able to serve openly and honestly in our military.”²⁵ While in 2007 he flip-flopped on the issue and argued that the “Don’t Ask, Don’t Tell” policy should remain in effect, he also said in 2011 (after Congress repealed the law) that openly gay service “no longer presents [a] problem.”²⁶

Problems do remain for openly gay servicemembers, however, even with “Don’t Ask, Don’t Tell” no longer on the books. Specifically, discriminatory laws and policies prevent servicemembers with same-sex partners from accessing a host of benefits currently afforded to servicemembers’ opposite-sex spouses. These benefits are available because our government recognizes that the nation’s troops make personal and financial sacrifices to serve our country. These sacrifices impact their families, and the benefits provided help to mitigate that impact.

But because of the Defense of Marriage Act, many of these benefits cannot be extended to servicemembers who have same-sex partners. This means their partners (and sometimes children in the family) are denied access to critically important benefits, including housing allowances, medical insurance (known as TRICARE), dental insurance, and surviving spousal benefits.²⁷

Other benefits, however, are fully available to servicemembers’ same-sex partners since they are “member-designated” benefits that give servicemembers the discretion to designate whomever they want as a beneficiary. Benefits in this category include hospital visitation rights, life insurance, and Thrift Savings Plans.²⁸

A third group of benefits are not prohibited by law, but are currently not extended to same-sex partners under existing Pentagon regulations. These benefits include legal services, military family housing, and on-base commissary and shopping privileges. For benefits in this group, the Defense Department can revise current military rules and regulations to redefine who is eligible for those benefits in a way that ensures equitable access for gay service members and their families.²⁹

In fact, officials at the Pentagon are doing just that. With “Don’t Ask, Don’t Tell” finally behind us, the Pentagon has started and will continue its departmental review of military benefits and will likely begin to extend those benefits following changes in Pentagon regulations.

While Mitt Romney appears to be OK with openly gay servicemembers, he has yet to comment on what he would do regarding equal benefits for these troops and their families. *Would Mitt Romney continue this ongoing review process to ensure all servicemembers, regardless of sexual orientation, can access these benefits? Or would he halt this process in its tracks and prevent gay servicemembers from accessing benefits for their partners and spouses?*

Unfortunately, the Republican National Committee's policy platform indicates that a Romney administration would likely roll back rather than advance equality for gay servicemembers.³⁰

4. How would you use your power as president to help end the rampant bullying of gay and transgender youth in our country's schools?

Far too many gay and transgender youth are suffering in this country because of bullying and harassment at school. A 2012 survey from the Human Rights Campaign found that gay and transgender youth are about twice as likely as their peers to be physically assaulted or verbally harassed at school. Bullying takes a drastic toll not only on student's emotional well-being and physical health, but also on their academic performance.³¹

Like his devolution with respect to workplace nondiscrimination laws, Gov. Romney similarly went from supporting antibullying laws and policies to opposing them. Specifically, he initially maintained support for policies that offered help to gay and transgender youth by allocating \$250,000 to the Governor's Commission on Gay and Lesbian Youth in 2005.³² But Gov. Romney later reversed course a year later and used a line-item veto to strip \$158,000 from a counseling program to help youth victims of violence. That same year Gov. Romney also prevented the publication of a 120-page antibullying guide by the state of Massachusetts that included two pages on combatting bullying of gay and transgender people, namely because it included the words "bisexual" and "transgender."³³

On the campaign trail Gov. Romney has made little mention of gay and transgender youth and the need to address bullying and harassment in our schools. *Given his mixed support for these kinds of laws and policies as governor, where is Mitt Romney on this issue today?*

Lawmakers in Congress have proposed two bills that if passed would give a much-needed lifeline to our country's gay and transgender youth. The Safe Schools Nondiscrimination Act would prohibit any school program or activity receiving federal money from discriminating against a student on the basis of their sexual orientation or gender identity.³⁴ The Safe Schools Improvement Act would require schools and districts to address bullying of gay and transgender students head on by incorporating sexual orientation and gender identity into existing antibullying and antiharassment regimens.³⁵ *As president, would Mitt Romney these bills and sign them into law?*

Administratively, President Obama has taken steps to combat bullying under existing civil rights laws. Officials at the Department of Education and the Department of Justice, for example, have investigated allegations of antigay harassment and bullying in school districts across the country. This has directly led school districts to undertake several initiatives to prevent bullying based on students' sexual orientation.³⁶ *Would Mitt Romney halt these kinds of efforts or would he encourage them as president?*

5. Where are you at when it comes to laws and policies that have to do with adoption?

One area of policy where Gov. Romney has been particularly confusing is adoption. Mitt Romney has said with some degree of consistency that this issue should be left up to individual states, but he has also said that same-sex couples have “a legitimate interest” in adopting children. Most recently, Gov. Romney said he is “fine” with same-sex couples adopting children.³⁷ But it only took one day for him to kowtow to conservatives by walking back his already timid statement in support of adoption rights, noting instead that he is “simply acknowledging the fact that gay adoption is legal in all states but one.”³⁸

First, Gov. Romney is considerably misinformed. Gay couples face legal obstacles to adopting and fostering children in many states, not just one.³⁹ Some states, for example, prohibit two individuals of the same sex from adopting children together, while others outlaw marriage for gay couples but require that parents who want to adopt are married. Second, with his inconsistent and ambiguous position on adoption, voters are left to wonder, *which public policies related to same-sex couples adopting children would a President Romney support or oppose?*

If he believes it is a state issue, for example, what would he do with bills like the Every Child Deserves a Family Act, which would prohibit any adoption or foster agency receiving federal funds from discriminating against parents based on their sexual orientation or gender identity?⁴⁰ *Would Mitt Romney sign this bill into law to ensure no couple is turned away from adoption services based on their sexual orientation or would he instead veto the bill and allow this kind of discrimination to go unchecked because it is a “state’s” issue?*

Alternatively, what would he do with antigay legislation that would further restrict same-sex couples’ ability to adopt or foster care children? *Would he halt, promote, or remain neutral on efforts to get this kind of legislation passed in Congress or in specific states?*

6. Would you continue Obama administration policies and programs that promote the rights and equality of gay and transgender people internationally, or would you terminate them?

Gay and transgender individuals around the world continue to face persecution, discrimination, and even violence based on their sexual orientation or gender identity. In many countries, homosexuality is considered a crime punishable by death.

Late last year President Obama took a major step to help advance gay and transgender rights abroad by issuing a memorandum directing all federal agencies to ensure their foreign assistance programs “promote and protect the human rights of LGBT persons.”⁴¹ And during her tenure with the Obama administration, Secretary of State Hillary

Rodham Clinton has spoken strongly and clearly about the importance of supporting and advancing gay and transgender rights around the globe.⁴²

For his part, Mitt Romney has yet to weigh in on the state of gay and transgender people internationally. For example, what does Gov. Romney make of the situation in Uganda, where antigay lawmakers are continuing to push through legislation that would make homosexuality a crime punishable by death?

More importantly, *what action would a President Romney take to support efforts such as the Obama administration's? Would Gov. Romney build off President Obama's work to ensure foreign aid is used to advance the rights of gay and transgender people abroad, or would he end those efforts altogether?*

If the GOP's official policy platform informs Mitt Romney's worldview—which as the head of his party it almost certainly does—then we probably know he would not support efforts to advance equality abroad. The recently leaked draft of the Republican Party's foreign policy platform accuses the Obama administration of advancing a “homosexual rights agenda” abroad.⁴³ Fortunately, that “agenda” has already helped pressure countries like Malawi into not passing antigay laws that would criminalize someone for being gay.⁴⁴ The question is, “Would Mitt Romney reverse this progress?”

Time to get specific

Mitt Romney usually relies on two answers when it comes to laws and policies that advance equality for gay and transgender Americans. He either outright opposes them or he offers only vague support for equality in general without offering any specifics as to what kinds of laws and policies he would support as president.

Voters—whether they support or oppose gay and transgender rights—deserve to know exactly where Gov. Romney stands on these issues. But given that his general approach to campaigning is to avoid talking about specific policies on any issue, voters are left to guess what he really thinks time and again.

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Endnotes

- 1 In this column, the term “gay” is used as an umbrella term to describe people that identify as gay, lesbian, or bisexual.
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