

Chairman Phil Mendelson

## Gay and Lesbian Activists Alliance of Washington, DC 2012 Questionnaire for D.C. Council Candidates

### MARRIAGE AND FAMILY

**1. In the event of congressional action leading to a ballot initiative in the District that would take away the civil marriage rights now enjoyed by same-sex couples, will you oppose the initiative and will you publicly defend civil marriage equality?**

Yes. Marriage is a fundamental human right that must not be denied to anyone. Further, no one's rights should ever be subject to the will of the majority. This is at odds with our republican form of government.

The authors of the Constitution were acutely aware of this problem and did not provide for direct democracy. An initiative that would ban same-sex couples to marry would be neither right, just, nor constitutional.

A referendum or initiative to deny a group their rights is unconstitutional in my view, and I am hopeful the Supreme Court will soon agree. The 14<sup>th</sup> Amendment states in part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Further, our own D.C. Human Rights Act states:

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

It is the duty and obligation of every elected official to defend the equal rights of all our citizens. I will do so with all of the means available to me.

In the past decade, I worked with GLAA to pass a number of domestic partnership laws, which removed all of the aspects of *Dean and Gill vs. the District of Columbia*, which would have allowed for a ballot measure to undermine marriage equality. I wrote the marriage recognition bill, and moved the marriage bill through the council with several amendments that GLAA recommended. I also held the two-day marathon hearing on the marriage bill. I testified on four ballot measures before the Board of Elections and Ethics—three times in person—opposing the measures as proper subjects for referendums.



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Early threats of Congress forcing a referendum on the District, as they did on the death penalty, has grown increasingly less likely. The Congress is more likely to repeal DOMA than force a referendum of the District. However, should this happen, I would strongly oppose it and campaign against removing equal rights. I believe that such a referendum would fail by a very large percentage. However, in the very unlikely event that it passed, I would introduce legislation to re-pass marriage equality.

I have subsequently written, introduced, and passed through the Council, Bill 19-526, the Civil Marriage Dissolution Equality Amendment Act of 2011. The legislation fills in for the lack of universal recognition of District marriages. In testifying on the bill, Rick Rosendall for GLAA stated:

The honor roll is lengthy but prominently includes you, Mr. Mendelson, for your tireless efforts to strengthen, pass, and defend that landmark [civil marriage equality] legislation.

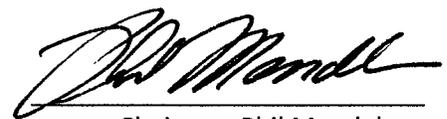
My efforts to pass marriage equality legislation and protect the law from ballot measures is second to none.

## **PUBLIC HEALTH**

**2. Will you support legislation giving the directors of the Office of GLBT Affairs and the Office of African Affairs the authority to issue competitive grants as other minority constituent offices have, that will be open to organizations serving the populations within the offices' purview?**

Yes. Each of these constituent service offices should have the same structural mechanisms to meet the needs of their communities. The DC Center, Mautner Project, Wanda Alston House, and many other organizations were hit with severe budget cuts resulting from the ethical scandal that ended earmarks, and the economic crisis which cut programs across the District. I strongly advocated for the removal of earmarks which had no accountability, oversight, or audits. The \$500,000 grant to the DC Center for a building was unfortunately eliminated as an earmark, but would have likely been eliminated from an austere budget in any event. We had to cut into essential services to balance the budget, which is a legal requirement.

Once the economy recovers, we will have to look into providing funding for smoking cessation programs targeting the LGBT community like those the D.C. Center and the Mautner Program had operated; programs targeting LGBT youth; the Crystal Meth Working Group; and the facilities needed to meet the needs of the community such as the Wanda Alston House, the DC Center, and the SMYAL buildings for the programs for young people. The grant process—given to the offices of GLBT Affairs and African Affairs—is appropriate for this.



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**3. Will you defend the District's hard-won and life-saving medical marijuana program against attacks or further restrictions, whether from Congress, federal officials or D.C. officials?**

Yes. Along with Councilmember David Catania, I have led the effort to pass legislation, and to support regulations to establish a meaningful medical marijuana program in the District. A program without adequate safe guards from abuse will likely attract unwanted attention from federal law enforcement officials. With the focus on medicine, the District law should result in a system where critically ill patients will receive the medication that they need. This law and the regulations are not intended to legalize marijuana for recreational use. The regulations will not do so. Four distribution centers have been approved. While this process has not been as quick as I hoped, it has been deliberate in order to make sure it isn't short-lived. I have not supported ward-specific legislation to restrict the location of cultivation and distribution centers. If other restrictions are proposed or put in place, I will defend the system or modify it with as few restrictions on medication as possible.

**4. Describe steps you will support to improve performance at the HIV/AIDS, Hepatitis, STD, and TB Administration (HAHSTA), including in HIV prevention, HIV/AIDS surveillance, and mental health services.**

HAHSTA has been moving in the right direction with the promotion of testing and treatment of all of our residents, making it a routine test. As HIV testing becomes routine, the stigma associated with it decreases. With testing, we can find out who needs treatment. With treatment, the risk of transmission is dramatically reduced.

My colleague, Councilmember David Catania, has done a great job in improving HAHSTA through oversight and legislation. Epidemiological data is now being gathered and analyzed. Universal access to health care has driven the uninsured rate in the District to one of the lowest in the country, second only to Massachusetts, which had a head start. The rate of mother-to-infant transmission has dropped to zero.

We need to turn our attention to specific, overlooked communities to ensure that they are receiving education, testing, and treatment. The elderly in particular are seeing an increase in HIV transmissions. We need to continue or vigilance against Congressional interference with our needle exchange programs, and ensure that we are maintaining condom distribution, including in schools.

**PUBLIC SAFETY AND JUDICIARY**

**5. Will you press for increased oversight of the Metropolitan Police Department's gathering and analysis of crime statistics to ensure greater comprehensiveness and objectivity, including transgender-related hate crime data?**

Yes. As Chair of the Council's Committee on the Judiciary—which has oversight over the Metropolitan Police Department (MPD)—I have made oversight over crime reporting and police



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response a priority. Through oversight I have sought to ensure that all crimes—including those that are traditionally underreported or documented, such as hate crimes or assaults on bicyclists—are properly captured, documented, and investigated. An area that I have devoted significant attention to is the reporting of crimes committed on the basis of bias or prejudice toward the victim. During the current Council Period (19), I have held three hearings specific on the topic of “Hate Crimes in the District of Columbia and the Police Response to Reports of Hate Crimes.” These hearings have focused not only on understanding the scope of the problem, but also on prompting MPD to work with those communities most often affected by hate crimes—particularly the LGBT community—to develop strategies to address issues with reporting and prevent bias motivated crimes.

Crimes committed on the basis of bias or prejudices are unconscionable in their own right, but when government fails to properly identify the crime as a hate crime we compound this injustice. This is because when we fail to understand the nature and significance of the crime, we hinder the development of strategies and tactics that can put an end to the crime. I will continue to work with MPD to ensure that reporting and response to criminal activity, particularly bias-related crimes, is made a priority. While a component of this certainly involves ensuring adequate officer training, I believe that it is equally as important that the Department continue efforts to meet and work with affected communities to understand their concerns and develop strategies to resolve them. Involving representatives of affected communities in the process, such as MPD has done by inviting the National Center for Transgender Equity to take part in a Task Force on hate crime reporting in the District, is critical to bringing about meaningful solutions to the problem. I will continue to push for such community involvement, and continue to make oversight of reporting and response to such crimes a priority.

**6. Will you support funding for MPD to hire or contract qualified trainers to provide LGBT-inclusive cultural competency training including the handling of intimate partner violence?**

Yes. As I have consistently stated there is a need to ensure that all our public safety responders—including the Metropolitan Police Department and the Fire and Emergency Medical Services Department—are trained and responsive to the needs of the LGBT community. Continued training and proactive community outreach for law enforcement officers is integral to ensuring strong police-community relations. In my role as Chair of the Judiciary Committee I have worked to ensure that communication between MPD and the LGBT community is ongoing and productive. The training provided to law enforcement must be more than a budget line-item. It must instill real sensitivity to LGBT needs, from the leadership down, in order to ensure continued confidence in the Department. I will continue to work with agency leadership to ensure that training is part of the curriculum, including ongoing or refresher training. Funding for training may be less of an issue than leadership, but I will continue to work to ensure that we have both.



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**7. Will you oppose legislation to make permanent the so-called Prostitution-Free Zones (PFZs), which facilitate anti-transgender profiling, and will you vote to repeal the current PFZ law?**

Yes, I will continue to oppose the legislation purporting to create permanent or indefinite prostitution-free zones (PFZs). As Chair of the Committee on the Judiciary I have highlighted the legal and policy problems with such a proposal, and prevented such a measure from moving through the Council. Specifically, earlier this year I orchestrated a public hearing to raise these issues with regard to a colleague's legislative proposal (Bill 19-567) to create permanent PFZs. As I have previously stated, and as was reinforced at the public hearing, permanent PFZs are tantamount to anti-loitering provisions that have been consistently struck down as unconstitutional. The Supreme Court has held repeatedly that persons have the right to loiter. Criminalizing behavior such as congregating in a public space is not the means to address crime. Further, as has been well publicized in both the press and at hearings I have held, such laws are often used to disproportionately target certain populations—particularly the LGBT populations. GLAA and Human Rights Watch, among others, have documented the disproportionate and discriminatory impact on the transgender community. Authorizing or facilitating such behavior through statute is something I have and will continue to oppose. I will, however, continue to work with the Metropolitan Police Department (MPD) to ensure that the agency is attentive to these concerns and addresses them through outreach and officer training.

I believe that the Council can help facilitate law enforcement's efforts to address human trafficking and child exploitation in the District. As Chairman of the Judiciary Committee I have worked with the Metropolitan Police Department (MPD), the Office of the Attorney General, and the U.S. Attorney's Office to ensure they have the tools and resources necessary to combat this behavior.

## **HUMAN RIGHTS**

**8. Do you agree that the Director of the Office of Human Rights should be required to have professional training and experience in civil rights law enforcement?**

Yes. The Office of Human Rights deals with a specialized area of law. The staff and director must make judgments on the law's applicability, breadth, and limitations, all the while being sensitive to the personal and emotional nature of discrimination. This is quite different from other agencies where the director is focused on management, finances, and service delivery; although the OHR director must also handle these issues. Some reasonable minimum qualifications can and should be adopted. I have done this with the Attorney General in the "Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010" (D.C. Law 18-160). The Attorney General must be a member of the D.C. BAR for at least 5 years and have worked as an attorney, judge, or law professor for 5 of the prior 10 years in D.C. I support the adoption of minimum levels of education and experience in human rights for future directors.



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## **YOUTH AND SENIORS**

### **9. Will you oppose both federal and local voucher programs that fund students in religious schools that are beyond the protections of the D.C. Human Rights Act?**

Yes. I have always opposed vouchers. The federal and District government should use its resources to improve the schools for all of our students, and not pay for some to leave our school system. Vouchers have provided private school tuition for not more than 2,000 students, which is less than 3 percent of the roughly 67,000 students in the District's public school population. It is our responsibility to improve both public and public charter schools.

Taxpayer-funded programs should not be allowed to function outside of the protections guaranteed by our Human Rights Act. Nearly all of the voucher funding has gone to religious schools which are exempted from protecting our children, teachers, and other employees from discrimination. This situation is analogous to the Archdiocese seeking exemption from the Marriage Equality law. It is discriminatory and I do not support it.

Last year I wrote a to the Hill opposing pending congressional legislation that would re-impose a taxpayer-funded voucher program for religious and other private schools in the District of Columbia. I appreciate GLAA's efforts to urge the other members of the Council to sign on, as well as the similar letters sent by GLAA.

### **10. Will you oppose the use of either federal or District taxpayer funds to promote "abstinence only until marriage" sex education that undermines safer-sex programs by excluding more comprehensive information?**

Yes. Abstinence education is desirable as part of a comprehensive sexual education program. However, it is no substitute for sexual health education that is thorough, frank and age appropriate. Sexual education must provide scientifically accurate information regarding safer-sex practices, harm-reduction strategies, and human sexuality. We cannot expect a positive outcome from deliberately withholding health information from our students. Education in our public schools should be based on science.

### **11. Will you support legislation to ensure equal Medicaid spousal impoverishment protections for same-sex partners, including providing local funding to pay for benefits that are denied at the federal level due to the anti-gay Defense of Marriage Act?**

Yes. While it is unlikely that DOMA will survive in court, having been repeatedly found unconstitutional, there is still the necessary stop-gap need for the District to make up for the unequal and inadequate provisions of federal law. Funding will be needed to meet this need, but hopefully the Supreme Court will find the Department of Justice's arguments persuasive and rule Section 3 of DOMA unconstitutional. As I have done with the Civil Marriage Dissolution Equality Amendment Act of 2011 and continue to pursue with the Judicial Declaration of Parentage Amendment Act of 2011, I continue to strongly support the equal rights of gay and lesbian couples and their children.



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## CONSUMERS AND BUSINESSES

### **12. Do you support the right of adults in the District to choose adult-oriented entertainment for themselves, and the right of appropriately licensed and zoned businesses to provide it, without excluding any ward?**

Yes. I've always believed consenting adults can decide what is best and appropriate for themselves. Adult entertainment is part of the wide range of entertainment that is and should be available in the District. A number of adult-oriented businesses—especially those oriented to toward LGBT people—were displaced by the baseball stadium, which I opposed due to its financing plan. Businesses had very limited options to move to other locations due to extremely restrictive regulations. I was a co-sponsor of Bill 16-589, "The One-Time Relocation of Licensees Displaced by The Ballpark Amendment Act of 2006," and I voted for the final bill, Bill 17-109, which allowed for some additional options for relocating.

### **13. Will you support legislation to curb abuses involving endless series of baseless complaints to harass or extort bars and restaurants?**

Yes. Harassment of businesses must not be permitted. The regulatory problems faced by Hank's Oyster Bar demonstrate failures in the process. I am open to legislation that will help businesses, but we must also have fair and equitable regulations that permit adversely affected neighbors, ANCs, and community associations to comment. The legislation introduced by Councilmember Jim Graham, the "Omnibus Alcoholic Beverage Regulation Amendment Act of 2012," B19-0824 has a number of useful provisions including clarifying what may be in a voluntary agreement. It should be noted that ANC 2B has generally sided with Hank's. ANCs provide elected community representation to weigh-in on community concerns, such as liquor licenses, with a broader community assessment than a so-called gang of five.

Restrictions are warranted against people who are found to be abusing the regulatory systems to harass businesses, much as nuisance litigants are prevented from filing suits in court without prior permission. This would need to be done with great concern for due process so that communities are not unduly restricted from petitioning the government. The process also must not be allowed to drag out as this can be extremely expensive for a business put on hold. Delays can sometimes be as long as a year for the ABC adjudication process to finish. A more timely process would help, perhaps with stricter deadlines. Many businesses are supported by their neighbors and there should be some formal way to include their comments as well. Standing should be granted for supporters as well as opponents in any dispute. The challenge will be to find a balance between the rights of neighbors and the rights of businesses.

### **14. What will you do to provide alternatives to incarceration for marginalized and at-risk populations like homeless youth and transgender people who resort to prostitution for survival?**

For the many people who turn to prostitution to survive, incarceration offers no help in improving their lives or providing alternatives to survival sex. I agree with GLAA that "the city

  
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must pursue safer, healthier, and more sustainable alternatives by providing drop-in centers, transitional housing, job training and other educational programs, counseling, addiction recovery programs, mental health services, and STD testing and treatment for at-risk populations.”

These should be wrap-around services so that a person need not go from agency-to-agency for help. Examples of housing programs include the Wanda Alston House to help GLBT youth from living on the street and CASA Ruby to provide a drop-in center for transgender people. Mayor Gray’s initiative, Project Empowerment, is a good program to help the transgender community get job training and employment in the District government. Similar efforts are needed to move more people away from seeing prostitution as their only, or best, means of survival.

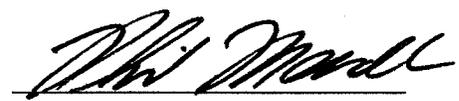
**Your record is part of your rating. Please list any actions that you have taken that may help illustrate your record on behalf of lesbian, gay, bisexual and transgender people.**

- I wrote, introduced and moved through the Council, Bill 19-526, the “Civil Marriage Dissolution Equality Amendment Act of 2011,” which allows same-sex couples who are married in D.C. but living in jurisdictions that don’t recognize their marriages, to be able to divorce in D.C. without establishing residency.
- I wrote and introduced Bill 19-615, the “Judicial Declaration of Parentage Amendment Act of 2011,” which I hope will pass the Council before the end of the year. The bill will expand the jurisdiction of the D.C. courts where an adopted child was born in the District to issue a determination of parentage for a child born in the District but whose parents reside elsewhere.
- I wrote to Sibley Hospital, with other Councilmembers, to end discrimination against same-sex parents. <http://www.glaa.org/archive/2011/council2sibley0728.pdf>
- I was a co-introducer of the “Religious Freedom and Marriage Equality Amendment Act.”
- I wrote the final marriage equality bill as Chair of the Committee on Public Safety and the Judiciary.
- I held a hearing with over 220 witnesses on the marriage equality bill.
- I rejected the proposed conscience clause amendment and the proposed business exemption.
- I worked with Congresswoman Eleanor Holmes Norton to ensure that the Congress would not interfere with our law or force a ballot measure.
- I introduced the amendment recognizing marriages from other jurisdictions.



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- I testified four times in writing and three times in person before the BOEE that the proposed ballot measures were improper. I was the only Councilmember or candidate to testify.
- I was the only Councilmember or candidate to speak at the rally in Dupont Circle the night the California Supreme Court upheld Prop 8.
- I worked with GLAA to systematically change or repeal all of the laws that were used in *Dean and Gill vs. D.C.* which found that the D.C. Human Rights Act (HRA) did not require the District to provide equal marriage rights to same-sex couples.
- I wrote or introduced more than a dozen bills amending all marriage rights and responsibilities in the D.C. Code to be gender-neutral, and repealing other potentially discriminatory marriage laws. The two major bills were the Omnibus Domestic Partnership Equality Amendment Act of 2008 and the Domestic Partner Equality Act of 2006.
- I wrote the “Accrued Sick and Safe Leave Act of 2008” (D.C. Law 17-152), which recognizes the rights of acting parents and domestic partners to take leave from work to take care of their families.
- I wrote and worked with GLAA, Nancy Polikoff, Michelle Zavos, and others on the Domestic Partnership Judicial Determination of Parentage Act of 2009. D.C. now has the strongest parental rights law in the country. Efforts by the Attorney General to kill the bill were rejected.
- I blocked the provision of the Safe Marriage Amendment Act to require mandatory testing of people for HIV in order to get married.
- I stopped efforts to create mandatory HIV testing for marriage licenses and in correction facilities. Mandatory testing would undermine our HIV prevention strategy and is not supported by public health officials.
- I repealed all of the remaining anti-gay laws in the criminal code, especially the notorious SLIP laws.
- I have been the primary advocate for the Office of Police Complaints, restoring and increasing funding over time.
- I removed a section of a proposed law that would have the effect of police targeting transgender people on the suspicion that all transgender people are prostitutes.
- During the current Council period, I have held three hearings specific on the topic of “Hate Crimes in the District of Columbia and the Police Response to Reports of Hate Crimes.”



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- I demanded and received the first report on hate crimes. I required that the MPD amend the report to properly identify hate crimes by their legal categories, separating crimes based on sexual orientation from those based on gender identity and expression.
- I co-sponsored and voted for the “Human Rights Clarification Amendment Act of 2005,” and I supported and voted for the “Prohibition of Discrimination on the Basis of Gender Identity and Expression Amendment Act of 2008,” D.C. Law 17-177.
- I wrote the “Attorney General for the District of Columbia Clarification and Elected Term Amendment Act of 2010,” D.C. Law 18-160.
- I was a co-sponsor of Bill 16-589, “The One-Time Relocation of Licensees Displaced by The Ballpark Amendment Act of 2006,” and I voted for the final bill, now D.C. Law 17-24, which allowed for some additional options for nightclubs that offer nude dancing to relocate.
- I co-introduced the “Legalization of Marijuana for Medical Treatment Initiative Amendment Act of 2010” and ensured that the focus would be on medical treatment as the sponsors of the initiative intended. I managed the bill to final adoption.
- I co-introduced and worked for passage of the Department of Health Functions Amendment Act of 2005 (D.C. Law 16-90) which prohibits smoking inside workplaces including bars and restaurants.

**Your answers should be typed on separate paper rather than on this form. *You must sign your name on each answer sheet to indicate your personal commitment to your answers.***

**Please return your signed questionnaire responses by Wednesday, October 3 to GLAA, P.O. Box 75265, Washington, D.C. 20013.**

**In addition to sending your signed hard copy, please email a copy (in any major word processor or text format) for loading on GLAA’s website ([www.glaa.org](http://www.glaa.org)) to [equal@glaa.org](mailto:equal@glaa.org). Thank you.**



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