

Achieving Inclusivity for Transgender, Gender Nonconforming, and Nonbinary Community Members



Speakers

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Common Language



- Gender is different than sexual orientation
- Dimensions of Gender:
 - -Body
 - -Identity
 - -Social Gender
- Congruence → the feeling of harmony in our gender
- Congruence → transitioning
- Language is Powerful: Pronouns → Discover; do not assume!



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A Starting Point: Understanding the College Experience of TGNCNB Students



- In a 2016 survey, 24% of trans/perceived as trans students reported experiencing verbal, physical, or sexual harassment; 16% left school because of harassment (U.S. Transgender Survey, 2016)
- In a 2017 survey of TGNCNB students attending college, including graduate/professional technical schools, 35% reported harassment/bullying (National Transgender Discrimination Survey, 2017)
- In a 2017 survey, 75% of TGNCNB high school students reported feeling unsafe due to gender expression; 50% were prevented from using the name or pronouns that match their gender (Movement Advancement Project & GLSEN, 2017)

Source: The Williams Institute, UCLA Law School, *Transgender Students in Higher Education* (Abbie E. Goldberg, August 2018)



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Recent Case Law: Gender Identity



- **Constitutional Rights:** *Meriwether v. Hartop*, 992 F.3d 492 (6th Cir. 2021)
- **Health Insurance:** *Kadel v. Folwell*, 446 F. Supp. 3d 1 (M.D.N.C. 2020)
- **Student Organizations:** *Business Leaders in Christ v. Univ. of Iowa*, 991 F.3d 969 (8th Cir. 2021)
- **Tenure Denial:** *Tudor v. Se. Okla. State Univ.*, 13 F.4th 1019 (10th Cir. 2021)
- **Restroom Facilities/Student Records:** *Grimm v. Gloucester Cty. Sch. Bd.*, 972 F.3d 586 (4th Cir. 2020); *Parents for Privacy v. Barr*, 949 F.3d 1210 (9th Cir. 2020)(K-12 decisions)



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Tensions in Contemporary Federal-State Landscapes: Federal Developments



- **March 31, 2022 Biden-Harris Administration Fact Sheet**

Rolled out "X" as a gender option for passport applications

- **The Equal Employment Opportunity Commission (EEOC)**

Including "X" as a gender option on intake forms



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Tensions in Contemporary Federal-State Landscapes: State Developments



***States with anti-transgender laws passed
(or on the horizon):***

- Florida
- Idaho
- Iowa
- Louisiana
- Indiana
- Missouri
- Kentucky
- Alabama
- Tennessee
- Arizona
- Alaska
- New Hampshire



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Inclusivity: Through a Systems Lens



- Employee/Student Data Systems
- Healthcare Services
- Health Insurance Plans
- Facilities (Housing, Restrooms, Lockerrooms)
- Extracurricular (e.g., Athletics, Camps)
- Counseling Services



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The Role of Counsel



- In-house, external counsel
- Opportunities for campus collaboration (e.g., Title IX Coordinator, DEI)
- Focus on what is possible
- Facilities (Housing, Restrooms, Lockerrooms)
- Ways to empower/guide institutional clients/partners
- Monitoring the shifting landscape



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Key Takeaways



- Small steps matter (e.g., pronouns, Pride Month, Trans Day of Visibility, gender inclusive language, educate yourself, do not make assumptions)
- Be proactive and collaborative
- Benchmark outside the box (i.e., K-12, private industry, etc.)
- Where there are legal limitations, look for ways to still give meaning to your institution's values
- Keep vigilant with respect to shifting legal landscape
- Lead with empathy and compassion, and be mindful of multiple identities



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Questions?



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