Best Practices in Representing LGBTQI+ Individuals

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- Legal support for Best Practices:
  - NYC Human Rights Law (has explicitly covered gender identity and expression since 2002):
  - NY State Human Rights Law:
    - GENDA passed in Jan 2019 and explicitly added gender identity and gender expression to protected categories under the NYSHRL
      - Law available here: [https://dhr.ny.gov/law](https://dhr.ny.gov/law)
    - NYSDHR had also previously issued rules defining sex to include these categories.
  - Court and EEOC opinions holding that Title VII and federal constitutional law protects transgender people not just from firing or refusal to hire, but also purposeful and repeated misgendering, barring from using facilities in accordance with gender identity, and prohibitions on expressing one’s gender through clothes, name/pronoun changes, etc.:
Relevant Resources

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- Court and EEOC opinions establishing that Title VII protects LGB people from discrimination in the workplace:
  - *Zarda v. Altitude Express*, 883 F.3d 100 (2d Cir. 2018) (on appeal before SCOTUS; cert. granted)
  - *Franchina v. City of Providence*, 881 F.3d 32 (1st Cir. 2018)

- Court decisions establishing legal requirement to allow transgender students to access facilities in accordance with their gender identity:
  - *Doe v. Boyertown Area Sch. Dist.*, 897 F.3d 518 (3rd Cir. 2018) (on appeal before SCOTUS)
  - *Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ.*, 858 F.3d 1034 (7th Cir. 2017)

- Court opinions regarding the legal right of transgender people to privacy with respect to their transgender status and information regarding medical treatment for gender dysphoria, including in discovery proceedings:
  - *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999)

- Examples of courts using and requiring parties to use transgender litigants' affirmed pronouns:
  - *Williams v. Paramo*, 775 F.3d 1182, 1184 n.1 (9th Cir. 2015) ("Williams identifies as a transgender woman, and we refer to her as a woman even though she is classified as male in the prison records.")
  - *De'lonta v. Johnson*, 708 F.3d 520 (4th Cir. 2013) (using female pronouns to refer to incarcerated plaintiff, a transgender woman)
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- Hunter v. United Parcel Service, Inc., 697 F.3d 697 (8th Cir. 2012)
- Glenn v. Brumby, 663 F.3d 1312 (11th Cir. 2011)
- Battista v. Clarke, 645 F.3d 449 (1st Cir. 2011)
- Meriwether v. Faulkner, 821 F.2d 408, 409 n.1 (7th Cir. 1987)
- State v. Harris, 873 N.W.2d 301 (Iowa Ct. App. 2015) (since “the victim was transgender and identified as female . . . this opinion will refer to the victim as Salena and use female pronouns”)
- United States v. Manning, ARMY 20130739 (A. Ct. Crim. App. Mar. 4, 2015) (ordering that reference to appellant in all legal papers before the court employ a feminine pronoun or be gender neutral) (attached)