

## Relevant Resources

# Best Practices in Representing LGBTQI+ Individuals

By: Demoya R. Gordon

- Legal support for Best Practices:
  - Map of LGBT protections by state:  
[http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws)
  - NYC Human Rights Law (has explicitly covered gender identity and expression since 2002):
    - Text of law here: <https://www1.nyc.gov/site/cchr/law/text-of-the-law.page>
    - Guidance re gender identity and expression here: <https://www1.nyc.gov/site/cchr/law/legal-guidances-gender-identity-expression.page>
  - 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>
    - 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.:
    - *E.E.O.C. v. R.G. & G.R. Harris Funeral Home*, 884 F.3d 560 (6th Cir. 2018) (on appeal before SCOTUS; cert. granted)
    - *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011) (EP Clause case)
    - *Lusardi v. McHugh*, Appeal No. 0120133395, 2015 WL 1607756 (EEOC Apr. 1, 2015)
    - *Jameson v. U.S. Postal Service*, EEOC Appeal No. 0120130992, 2013 WL 2368729 (May 21, 2013)
    - *Macy v. Holder*, No. 0120120821, 2012 WL 1435995 (EEOC Apr. 20, 2012)

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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)
  - *Hively v. Ivy Tech. Comm. College of Indiana*, 853 F.3d 339 (7th Cir. 2017)
  - *Baldwin v. Foxx*, Appeal No. 0120133080, 2015 WL 4397641 (EEOC July 15, 2015)
- 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)
  - *Adams v. Sch. Bd. of St. John's Cnty*, 318 F. Supp. 3d 1293 (M.D. Fla. 2018) (now before 11th Circuit on appeal)
  - *Evancho v. Pine Richland Sch. Dist.*, 237 F. Supp. 3d 267 (W.D. Pa. 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)
  - *Roberts v. Clark Cnty Sch. Dist.*, No. 2:15-cv-0038-JAD-PAL, 312 F.R.D. 594 (D. Nev. Jan. 11, 2016)
- 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)
- *Cole v. Johnson*, No. 14-CV-01059-JPG-PMF, 2015 WL 4037522, at \*2 (S.D. Ill. July 1, 2015) (“As a transgender person, the Court will refer to the Plaintiff using feminine pronouns.”)
- *Rumble v. Fairview Health Servs.*, No. 14-CV-2037 (SRN/FLN), 2015 WL 1197415 at 3-5 (D. Minn. Mar. 16, 2015) (using male pronouns to refer to Plaintiff Jakob Rumble, a transgender man, and discussing correct terminology for addressing transgender people)
- *Lopez v. River Oaks Imaging Diagnostic Grp.*, 542 F. Supp. 2d 653 (S.D. Tex. 2008) (transgender plaintiff asserting an employment discrimination claim referred to by court with pronouns corresponding with her gender identity)
- *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”)
- *Doe ex rel. Doe v. Yunits*, No. 001060A, 2000 WL 33162199, at \*1 (Mass. Super. Oct. 11, 2000) (“[t]his court will use female pronouns to refer to plaintiff: a practice which is consistent with the plaintiff’s gender identity and which is common among mental health and other professionals who work with transgender clients”); *aff’d sub nom. Doe v. Brockton Sch. Comm.*, No. 2000-J-638, 2000 WL 33342399 (Mass. App. Ct. Nov. 30, 2000)
- *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)