

Federal Law, System Regulation 08.01.01, Civil Rights, and Working with the LGBTQ+ Communities

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• Introduction

- Title IX (current and future) and System Regulation 08.01.01
- Statistics
- Definitions
- Perceptions, Assumptions, and Values
- Understanding Privilege
- Defining Micro-Aggressions
- Video
- What can/should we do?
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- Title IX

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]”



- System Policy 08.01 (Civil Rights)

“No individual will, on the basis of race, color, sex, religion, national origin, age, disability, genetic information, veteran status, sexual orientation, gender identity or any other classification protected by federal, state or local law be excluded from participation in, or be denied the benefit of or be subjected to discrimination under any system program or activity.”



- Title IX (future, per 2022 NPRM)

“Back to the Future”

- Hearings become optional
- Cross-examination becomes optional
- Jurisdiction goes back to Pre-2020
- “Preponderance” is the preferred standard
- Provides for emergency removals in cases involving both physical and non-physical threats



- Title IX (future, per 2022 NPRM)

The proposed regulations would continue to cover quid pro quo harassment—when an employee or other person authorized by a recipient† to provide an aid, benefit, or service explicitly or impliedly conditions that aid, benefit or service on a person’s participation in unwelcome sexual conduct, and incidents of sexual assault, dating violence, domestic violence, and stalking. (Proposed § 106.2)



- Title IX (future, per 2022 NPRM)

The proposed regulations would also cover harassment that creates a hostile environment—unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively, it denies or limits a person’s ability to participate in or benefit from the recipient’s education program or activity. (Proposed § 106.2)

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- Title IX (future, per 2022 NPRM)

The proposed regulations would define sex-based harassment as including sexual harassment; harassment based on sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity; and other sex-based conduct that meets requirements described immediately below. (Proposed § 106.2)

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• Statistics

Source: Gallup

- As of 2022, the LGBT community comprises an estimated 7.1% of U.S. adults
- By generation, this includes:
 - 0.8% of “Traditionalists” (born before 1946)
 - 2.6% of “Baby Boomers” (1946-1964)
 - 4.2% of “Generation X” (1965-1980)
 - 10.5% of “Millennials” (1981-1996)
 - 20.8% of “Generation Z” (1997-2003)

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• Statistics

Source: National Sexual Violence Resource Center and The Trevor Project

- LGBT people are four times more likely to be victims of violence
- 50% of transgender people have been sexually assaulted at least once
- 90% of transgender people have experienced harassment, mistreatment, or discrimination at their jobs
- 44% of lesbians have experienced rape, physical violence, or stalking by an intimate partner; while 26% of gay men and 37% of bisexual men have experienced the same
- 36% of LGBTQ youth have been physically threatened or harmed due to their sexual orientation or gender identity
- 65% of LGBTQ youth reported that they have experienced discrimination based on their sexual orientation

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• Statistics

Source: The Trevor Project

- 45% of LGBTQ youth seriously contemplated suicide in the past year (2022), while 14% attempted it
- 73% of LGBTQ youth reported signs of anxiety, while 58% reported signs of depression
- Among LGBTQ youth, 82% want mental health care, but 60% were not able to get it
- 93% of transgender and nonbinary youth said that they have worried about transgender people being denied access to gender-affirming medical care due to state or local laws
- 91% of transgender and nonbinary youth said that they have worried about transgender people being denied access to the bathroom due to state or local laws.

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• Disclaimer

Today's topic is one that is certainly "politically charged" in our current society. The purpose of today's workshop is not to play into the "culture wars" being waged over gender, sex, and sexuality, but instead to highlight federal law and System policy/regulation as it relates to the conduct of System employees, as well as the obligations of the university. Today's material is intended to educate our employees on LGBTQI+ students and employees, and to establish baseline expectations and best practices.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

AGENDER

Describes a person who does not identify as male or female or some combination of male and female. Some agender individuals see themselves as genderless, while others see themselves as gender neutral.

ALLY

Describes a person who supports, both publicly and privately, the LGBTQ community and equality in its many forms. Heterosexual and cisgender people can be allies, as well as individuals from within the LGBTQ community.

ASEXUAL

Describes a person who is not sexually attracted others and has no desire to engage in sexual behavior. Asexuality differs from celibacy in that a person who is celibate is sexually attracted to others but chooses to abstain from sex.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

BIGENDER

Describes a person who has two genders. People who are bigender may experience two gender identities at the same time or at different times. These gender identities can be binary — male and female — or include nonbinary identities.

BISEXUAL

Describes a person who is attracted to both men and women. A person does not need to have had specific sexual experiences — or any sexual experience — to identify as bisexual.

CISGENDER

Describes a person whose gender identity matches the sex — male or female — originally identified on their birth certificate (i.e., people who are not transgender). Cisgender, which is pronounced sis-gender, describes only a person's gender identity — not their sexual or romantic attractions.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

ENBY

Describes a person who does not identify as exclusively male or exclusively female and usually prefers “they” as a pronoun. Enby is the phonetic pronunciation of “NB,” which stands for nonbinary. Not all nonbinary individuals prefer or use this term.

GAY

Describes a person who is attracted, emotionally and/or physically, to someone of the same gender. The term can be used by men, women or individuals who identify as nonbinary. A person does not need a specific sexual experience — or any sexual experience — to identify as gay.

GENDER

A social construct used to classify a person as a man, woman or some other identity. Fundamentally different from sex assigned at birth, gender is often closely related to the role that a person plays or is expected to play in society.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

GENDER AFFIRMING SURGERY

A surgical procedure that enables an individual’s body to be more congruent with their gender identity. Also referred to as sex reassignment surgery or gender confirming surgery.

GENDER DYSPHORIA

Describes the extreme discomfort that a person feels because their assigned sex at birth does not match their gender identity. This sense of unease or dissatisfaction can cause depression and anxiety and negatively impact an individual’s daily life.

GENDER EXPRESSION

How individuals communicate their gender to others through their clothing, speech, mannerisms and other factors. Gender expression is not the same thing as gender identity. A person can express one gender yet identify with another.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

GENDER FLUID

Describes a person whose gender expression or gender identity — or both — changes over time. Not everyone whose gender identity or expression changes identifies as gender fluid.

GENDER IDENTITY

A person's internal identification as male, female, something in between or something other than the two conventional gender options. A person's gender identity is not visible to others and can match or differ from their assigned sex at birth.

GENDER NONCONFORMING

Describes a person who does not adhere to the traditional expectations — in terms of their appearance or behavior — of their assigned gender. Some of these individuals identify as transgender but others, for example, masculine lesbians, do not.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

HETEROSEXUAL

Describes a person who is attracted — physically and emotionally — to individuals of the opposite sex. Otherwise known as a straight person.

HOMOSEXUAL

Describes a person who is attracted — physically and emotionally — to people of the same sex. This term is outdated and disfavored in the LGBTQ community.

INTERSEX

Describes a person born with sex characteristics that are not typical for male or female bodies. Sex characteristics are physical features relating to sex — including chromosomes, genitals, hormones and other reproductive anatomy — as well as secondary features that emerge from puberty. Intersex is an umbrella term, and intersex characteristics and traits are not always apparent or identified at birth.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

LESBIAN

Describes a woman who is attracted, emotionally and/or physically, to other women. A woman does not need a specific sexual experience — or any sexual experience — to identify as a lesbian.

LGBTQ

An acronym used to describe lesbian, gay, bisexual, transgender, queer or questioning persons or the community. Avoid using the term “gay community,” as it does not accurately account for the community’s diversity.

NONBINARY

Describes a person whose gender identity falls outside of the two-gender construct (male or female). For example, nonbinary can describe an individual whose gender changes over time, who does not identify as male or female or who associates with elements of both genders. Some individuals who identify as nonbinary prefer the term enby.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

PANSEXUAL

Describes a person who is attracted to — or has the potential to be attracted to — people of any gender or gender identity. This attraction can be emotional or physical.

QUEER

An adjective used by some people, particularly younger people, whose sexual orientation is not exclusively heterosexual. Queer was once used a pejorative term and has been reclaimed by some — but not all — members of the LGBTQ community.

QUESTIONING

Describes a person who is still discovering and exploring their sexual orientation, gender identity, gender expression or some combination thereof. Using this term enables an individual to identify as part of the LGBTQ community while avoiding other labels and recognizing that their process of self-identification is still underway.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

SEX

The classification of a person as male or female. At birth, babies are assigned a sex that typically corresponds with their external anatomy. Yet an individual's sex is influenced by a larger combination of factors, including their chromosomes, genes, hormones, reproductive organs and secondary sex characteristics.

SEXUAL ORIENTATION

An enduring emotional and/or physical attraction (or non-attraction) to other people. Sexual orientation is fluid and encompasses a variety of labels, including gay, lesbian, heterosexual, bisexual, pansexual and asexual.

SOGIE

An acronym for sexual orientation, gender identity and gender expression. Every person has a sexual orientation, gender identity and gender expression.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

STRAIGHT

Describes a man who is attracted to women or a woman who is attracted to men. Can be used as a synonym for heterosexual.

TRANSGENDER

Describes a person whose gender identity and/or gender expression do not match their assigned sex at birth. Transgender people may be straight, lesbian, gay, bisexual or queer.

TRANSGENDER (OR TRANS) MAN

Describes a person who was assigned a female sex at birth but identifies as male. This person may or may not actively identify as trans.

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• Definitions

Source: The Annie E. Casey Foundation <https://www.aecf.org/blog/lgbtq-definitions>

TRANSGENDER (OR TRANS) WOMAN

Describes a person who was assigned a male sex at birth but identifies as female. This person may or may not actively identify as trans.

TRANSITION

A complex process by which transgender people align their anatomy (medical transition) and gender expression (social transition) with their gender identity. Transitioning is a multiple-step process that occurs over a long period of time. It can include such steps as using a different name, using new pronouns, dressing differently, updating legal documents, hormone therapy and surgery. The exact steps involved in a person's transition varies.

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• Perceptions, Assumptions, and Values

- **Perceptions** – How we view the world
- **Assumptions** – Conclusions we reach about others and the world based on our perceptions
- **Values** – Individual beliefs that motivate people to act one way or another



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- Understanding Privilege

The concept of privilege addresses the complex correlations between a person's interconnected social identities (race, class, gender, age, physical ability, etc.) and the degree to which individuals and groups experience advantages or disadvantages relative to other people.



- Understanding Privilege

“It’s tricky business to talk about privilege. Nobody wants to be called out for being over-privileged, and likewise, labeling others as “unprivileged” or “underprivileged” can smack of patronizing sympathy. A more productive starting point is to begin by turning the lens inward.



• Understanding Privilege

“Part of the difficulty in talking about privilege is that it strikes at the nerve-center of our national identity as “the land of opportunity...” - the quintessential American ethos that hard work pays off.

“But the problem is, hard work doesn’t always pay off, and particularly for some people, it often doesn’t.... The playing field isn’t (always) equal.”

- Ben Wilson (“Grotto Network”)



• Understanding Privilege

| Privileged Group | Category | Marginalized Group |
|--------------------|----------------------|--------------------|
| 30s to 50s | Age | Young/Old |
| White | Race | Person of Color |
| Male | Birth-Assigned Sex | Female, Intersex |
| Cis-gender | Gender Identity/Exp. | Nonbinary |
| Execs, Managers | Hierarchical Level | Workers, Students |
| Heterosexual | Sexual Orientation | LGBTQ |
| Upper/Upper Middle | Social Class | Working Class/Poor |



• Understanding Privilege

| Privileged Group | Category | Marginalized Group |
|---------------------------------------|-----------------------|--|
| Graduate Degree/ Private Schooling | Education | High school / Public school / 1 st Gen. |
| Christian | Religion/Spirituality | Muslim, Jewish, Agnostic, Atheist, etc. |
| U.S. Born | National Origin | Born outside U.S. |
| “Able-bodied” | Ableness/Disability | People w/ physical, mental, emotional and/or learning disability |
| American & Western European | Ethnicity/Culture | Latin America, Africa, Asia, Native American |
| Fit/Attractive | Size/Appearance | Heavy, Too tall/short, Unattractive |
| Proficient in English | Literacy | Not proficient, or accent |

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting



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• Understanding Privilege

| Privileged Group | Category | Marginalized Group |
|--------------------------------------|---------------------|---|
| Legally married and heterosexual | Marital Status | Single, Divorced, non-heterosexual |
| Parent in a 2-parent hetero marriage | Parental Status | Non-parent, single parent, non-hetero |
| More | Experience | Less or None |
| U.S. Citizen | Immigration Status | Non-citizen, Undocumented |
| Suburban | Geographic Region | Rural or Urban |
| Light skin/Caucasian features | Skin color/features | Dark skin/African or Asian features |
| Traditional hetero | Family Status | Blended family, single parent, non-hetero |

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting



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• Understanding Privilege

This exercise is not intended to make us feel bad about our privileges, but to get us to consider where we are disadvantaged, and then imagine what life might be like for someone experiencing fewer privileges; this is intended to evoke empathy, not judgment and pity

How many areas of privilege did you score (out of 21)?

Some of our privileges/disadvantages are seen, and some are unseen; We all have a story to tell, and it is worth the telling and the listening



• Defining Micro-aggressions

Microaggression is a term used for commonplace daily verbal, behavioral or environmental slights, whether intentional or unintentional, that communicate hostile, derogatory, or negative attitudes toward stigmatized or culturally marginalized groups.



• Defining Micro-aggressions

Characteristics of Micro-Aggressions:

Everyday actions that occur all around us

- Committed by people who believe they are fair-minded, without prejudice
- Possibly done without any conscious intent or malice
- Usually unaware of how their comment, tone, or behavior negatively impacts others
- May be considered “no big deal”
- Few recognize the cumulative, long-lasting impact of constant barrage of Micro-aggressions
- Some may not even recognize they experienced a micro-aggression until later

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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• Defining Micro-aggressions

Impact and Emotional Toll of Micro-Aggressions:

- Uncertainty – never knowing when they will experience another microaggression
- Constantly vigilant, always mindful of their surroundings
- Self-doubt ~ given the ambiguous nature of situations, some might obsess over questions like, “Am I over-reacting? Being too sensitive? Misinterpreting what just happened? Just being paranoid?”
- If they bring it up to the member of the privileged group, often met with denial, defensiveness; fear that this could hurt their relationship, career path
- Left feeling “I don't belong, I can't be successful here”

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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• Defining Micro-aggressions

Impact and Emotional Toll of Micro-Aggressions:

- May change their behavior in hopes that this may lessen their experiences of Micro-aggressions; may come across as overly friendly, helpful, passive, soft-spoken, ingratiating...
- Feel pressure to "act right" or their actions could be used to reinforce stereotypes about their marginalized group; carry the group on their shoulders
- Damages the respect they may have for members of privileged groups; may not use them as resources in the future
- Often invest time and energy trying to diagnose what happened, manage the impact and feelings, decide if and how to respond
- If choose to "let it go," may judge self as supportive of bad behavior; feel guilty for not stepping up

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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• Micro-aggressions

Increase Your Awareness:

PANNING =

**PAY
ATENTION
NOW**

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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• Micro-aggressions

An Activity for Later:

1. Intentionally observe and note behaviors, comments, feelings, patterns of treatment
2. Notice the group memberships of people involved
3. Ask yourself: Is this an isolated incident or a possible pattern of experience?
4. Avoid snap judgments or creating a story about what you see
5. PAN the specific details and facts of what you see, feel, hear...
6. Can you describe what happened without any assumptions, interpretations, conclusions, or prejudgments?

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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• Micro-aggressions

Things to look for:

1. Who is talking? Who is quiet?
2. What are the nonverbal behaviors?
3. Whose ideas get considered? Discounted?
4. Who interrupts others? Who gets interrupted?
5. How do decisions get made?
6. Who initiates eye contact?
7. Who brings up issues of respect and inclusion? How do others react?

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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- Video

<https://www.youtube.com/watch?v=rnbnF8QAnsY>



- What can/should we do?

1. Allow your perceptions to be formed by focusing on the speaker and their words; don't focus on what you might want to say next or what they look or sound like; this helps you avoid incorrect assumptions.
2. Consider that everyone's story is worth being told
3. Call people by their preferred name and their preferred pronouns, especially if we would do it for anyone else
4. We will mess up on pronouns... it's ok. Apologize and move on.



- What can/should we do?

5. Don't focus on differences in values, or feel the need to offer observations on differences unless a relationship exists where that is safe for all parties; their values are just as important to them as yours are to you
6. Be honest about your level of understanding and your preparedness (or not) to be an Ally
7. Interrupt conversations that are exclusive or otherwise inappropriate.
8. Build bridges, don't burn them

Source: Adapted from Kathy Obear, Ed.D., Alliance for Change Consulting

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QUESTIONS



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