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!
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 pronoun that matches their gender (Movement Advancement Project & GLSEN, 2017)

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

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)
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

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
**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
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

Questions?
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