

Beyond the Binary

Gender Issues in Employment and Practice



GREATER DES MOINES
PARTNERSHIP

oneiowa

Goals

- ✓ Understand the distinction between “gender” and “sex”
- ✓ Understand the unique challenges faced by LGBT and gender variant employees
- ✓ Understand relevant local, state, and federal laws regarding sexual orientation and gender identity
- ✓ Examine strategies for creating a gender inclusive workplace

It's YOUR job

- To make it safe to come out or transition
- To ask the questions that will invite people to bring their whole selves.
- To ask these questions of all people.
- To confront discriminatory policies in your workplace

The Good News

- **You don't have to be an expert on LGBT culture to be culturally competent**
- You just need:
 - Basic information
 - A willingness to learn
 - Openness to hear what someone is trying to tell you

Defining Our Terms

- Sex
- Gender
- Sexual Orientation
- Gender Identity
- Transgender
- Cisgender

Sex vs. Gender

- **Sex** refers to hormones, chromosomes, genital and reproductive anatomy, a biological classification
- **Gender** refers to concepts of femininity and masculinity, a socially constructed system of classification
- These may not be the same for any particular individual, i.e., a person with male anatomy may dress, speak and behave in a feminine manner.

Sexual Orientation

- Often confused with gender identity
- Refers to primary romantic or sexual attraction towards other people
 - **Lesbian**: an identity label for women who have primary sexual, romantic and relational ties to other women.
 - **Gay**: an identity label for men who have primary sexual, romantic and relational ties to other men.
 - **Bisexual**: an identity label for people who partner with either men or women.

According to the APA

Sexual orientation is...

- ✓ not a choice
- ✓ not an illness or emotional problem
- ✓ not able to be changed by therapy
- ✓ determined by many factors, usually at a very early age
- ✓ different from sexual behavior

Gender Identity

The persistent internal sense of being a man or a woman

- We all have a gender identity.
- For many of us this matches the sex we were assigned at birth. For transgender people, it does not.
- Our gender identity may or may NOT match our appearance, our body, others' perceptions of us.

Transgender

**Includes (but is not limited to)
the following:**

- ◆ **Transgender**
- ◆ **Transsexual**
- ◆ **Genderqueer**
- ◆ **Gender fluid**
- ◆ **Agender**
- ◆ **Two-spirit**
- ◆ **Bigender**
- ◆ **Intersex***

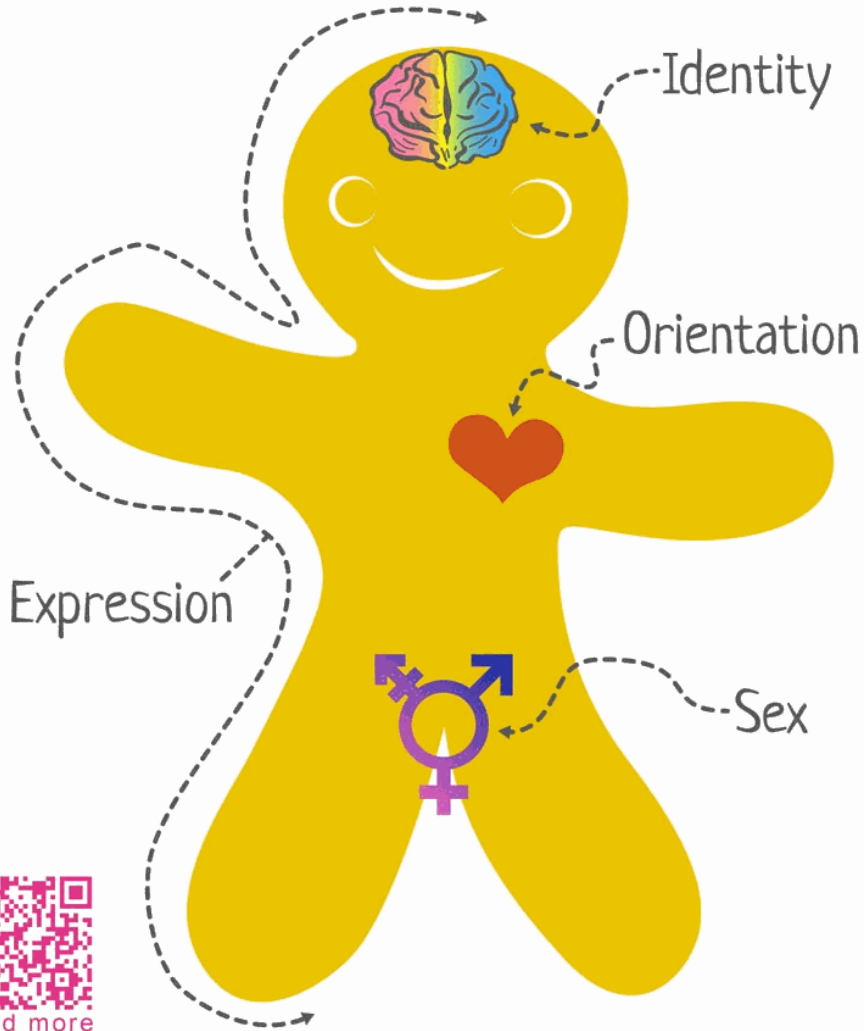


Transgender

- Transgender people:
 - Can decide to transition at any age
 - May or may not change their names and pronouns
 - May or may not decide to use hormones or surgery
- What to do when you meet transgender people
 - Ask what they prefer to be called and use that name
 - Ask what pronoun they prefer and use accordingly
 - Avoid invasive unnecessary questions

The Genderbread Person

by www.ItsPronouncedMetrosexual.com



Gender identity is how you, in your head, think about yourself. It's the chemistry that composes you (e.g., hormonal levels) and how you interpret what that means.



Gender expression is how you demonstrate your gender (based on traditional gender roles) through the ways you act, dress, behave, and interact.



Biological sex refers to the objectively measurable organs, hormones, and chromosomes. Female = vagina, ovaries, XX chromosomes; male = penis, testes, XY chromosomes; intersex = a combination of the two.

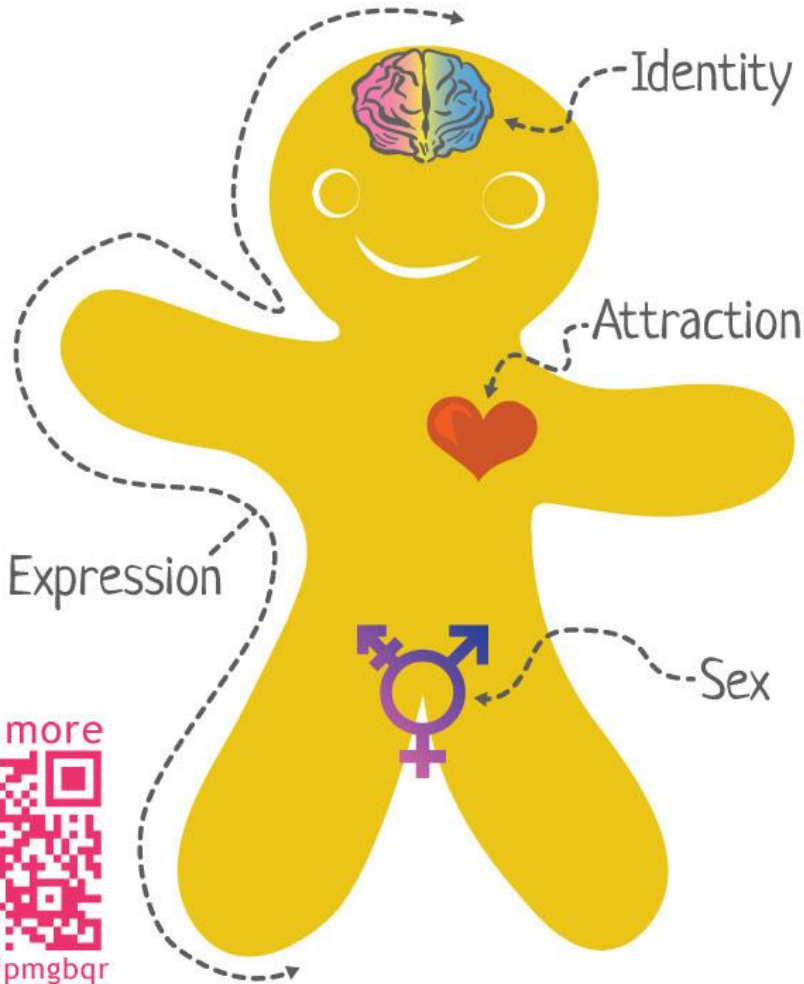


Sexual orientation is who you are physically, spiritually, and emotionally attracted to, based on their sex/gender in relation to your own.

The Genderbread Person v2.0

by its pronounced **METROsexual**.com

Gender is one of those things everyone thinks they understand, but most people don't. Like *Inception*. Gender isn't binary. It's not either/or. In many cases it's both/and. A bit of this, a dash of that. This tasty little guide is meant to be an appetizer for understanding. It's okay if you're hungry for more.



read more

bit.ly/ipmgbqr

Gender Identity



Gender Expression



Biological Sex



Attracted to



Remember:

- It isn't always obvious who is LGBT
- It's okay to ask questions about gender, partners, preferred pronouns, etc.
- It's okay to feel awkward as you learn how to ask these questions
- There are no universals. Some LGBT people don't even like the term LGBT.

Transgender Discrimination

- Trans people face many of the same types of discrimination that LGB individuals face, but with many additional hurdles including but not limited to:
 - Government identity documents that do not reflect their gender and are prohibitively difficult to change
 - Sex-segregated restrooms and other public facilities
 - Dress codes which perpetuate traditional gender norms
 - Barriers to access appropriate healthcare

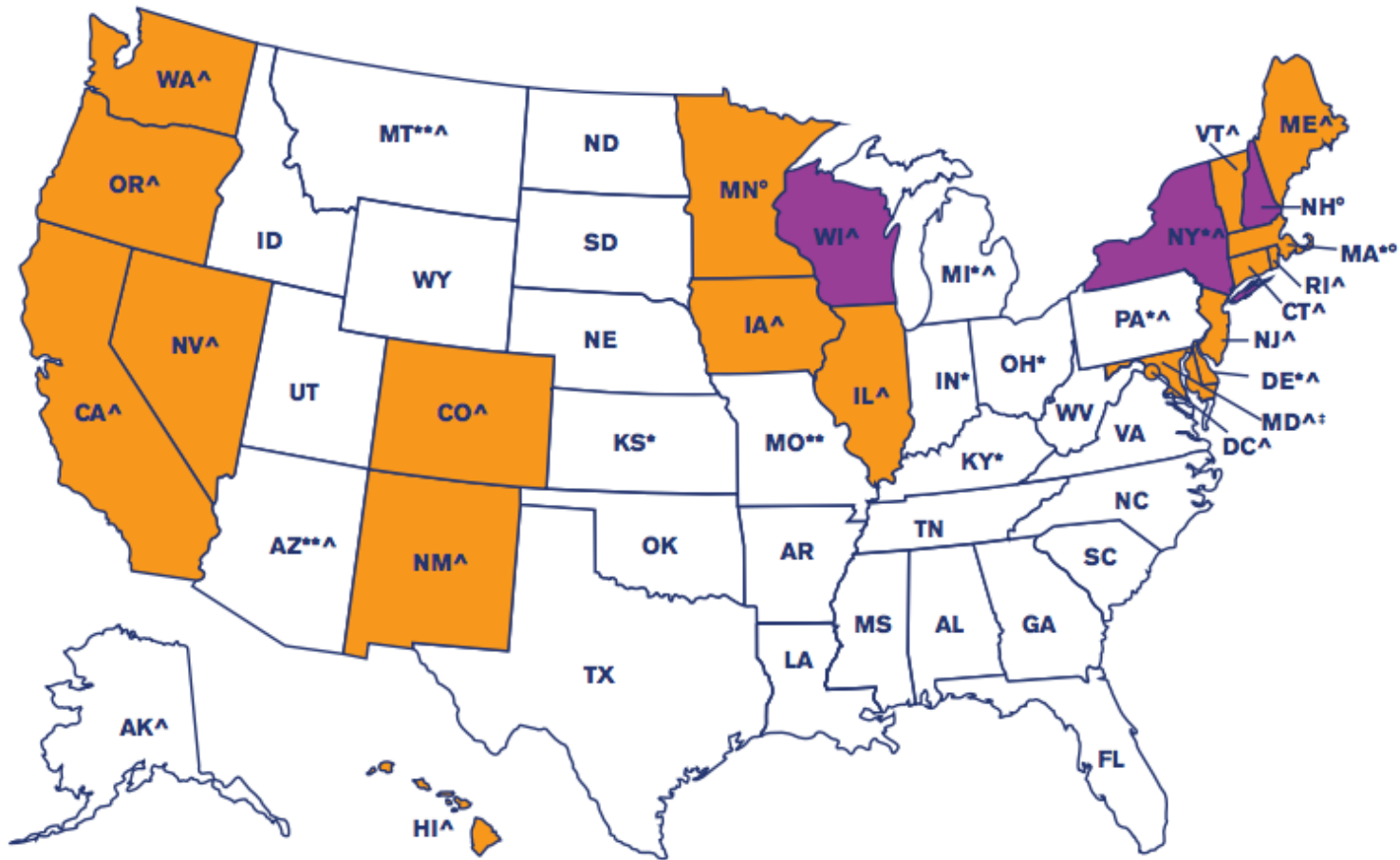
Snapshots of transgender life

The National Transgender Center for Equality surveyed 6,450 transgender individuals in the U.S. Full results are available at transequality.org.



Can I be fired for being LGBT?

- Within the state of Iowa?
 - Nebraska?
 - Missouri?
 - Wisconsin?
 - Illinois?
- How will your rights change depending on what state you are traveling through?



Updated May 15, 2014



States that prohibit discrimination based on sexual orientation and gender identity (18 states and D.C.):

California (1992, 2003), Colorado (2007), Connecticut (1991, 2011), Delaware (2009, 2013), District of Columbia (1977, 2006), Hawaii (1991, 2011), Illinois (2006), Iowa (2007), Maine (2005), Maryland* (2001, 2014), Massachusetts (1989, 2012), Minnesota (1993), New Jersey (1992, 2007), New Mexico (2003), Nevada (1999, 2011), Oregon (2008), Rhode Island (1995, 2001), Vermont (1991, 2007) and Washington (2006).

- State courts, commissions, agencies, or attorney general have interpreted the existing law to include some protection against discrimination against transgender individuals in Florida and New York.
- The Federal Equal Employment Opportunity Commission is now accepting complaints of gender identity discrimination in employment based on Title VII's prohibition against sex discrimination.



States that prohibit discrimination based on sexual orientation only (3 states): New Hampshire (1998), New York (2003) and Wisconsin (1982).

Discrimination is Real (and legally sanctioned)

- In **29** states it is legal to fire a worker simply for being lesbian, gay, or bisexual
- In **32** states it is legal to fire a worker based on their gender identity

Every LGBT person in the country knows this*

ENDA (the Employment Non-Discrimination Act), a proposed bill in the US Congress, would prohibit discrimination against employees on the basis of sexual orientation or gender identity. It has passed the Senate but is currently stalled in the House of Representatives.

...but not in Iowa

- Since the Iowa Civil Rights Code was amended in 2007:
 - 100% of the population is now protected against discrimination based on their sexual orientation
 - 100% of the population is now protected against discrimination based on their gender identity
- Federally – Title VII and Title IX provide protections for transgender students and other groups

So, it is the law

Now what?

Next steps: Designing Non-Discriminatory Policies

- This is easier than most think it would be
- Reasons to adopt such policies:
 - Maximizes recruitment and retention of trained workers
 - An environment of fairness increases morale
 - Improves employee productivity:
 - Transgender employees can focus on their work rather than worrying about their gender
 - Cisgender employees can focus on work and not controversy

Situations Needing Solutions

1. Restrooms
2. Harassment and Hostile Work Environment
3. Male/Female Boxes on Forms, Identification Cards, Background/Credit Checks, Security Checks
4. Gender-Specific Housing
5. Showers/Locker Rooms
6. Dress Codes

Three Principles

- Recognize self identity, regardless of surgery or documentation
 - Ask yourself: **Is this person's gender identity and expression being recognized in this situation?**
- Understand and apply the concept of reasonable accommodation
 - Ask yourself: **Is this a situation where the typical policies or procedures are resulting in a transgender person having to unfairly endure difficult or different conditions at work?**
- Biases of customers or coworkers are not a valid (or legally admissible) reason for discrimination
 - Ask yourself: **Is this a situation where an entity is trying to accommodate the biases, or lack of comfort, with transgender people, customers, or others?**

Restrooms

- Sometimes coworkers object to going to the same bathroom as a transgender person
- People should use the bathroom that matches their gender identity
- This is significantly less of an issue than people think it is. Employees will take the lead of management: if management declares a policy, others will follow
- Also helpful is an attitude that indicates that this is “no big deal”
- Remember: it is **the law**. There is no wiggle room here.

Harassment and Hostile Work Environment

- Recognize factors that may be unique in creating a hostile work environment for a transgender person:
 - Refusal to use correct pronouns, or apathy/carelessness in never learning to use the correct pronoun
 - Refusal to use a person's preferred name
 - Asking excessively personal questions that would be considered inappropriate if asked of non-transgender coworkers
 - Discussing coworkers' personal business behind their backs (including but not limited to intentionally outing someone)

ID Cards, Applications, Etc.

- This can come up in many different ways:
 - Check-off box for male or female on a job application form
 - Filling out an I-9 form, an employer discovers their employee is transgender
 - Entering a secure building, a person is asked for identification
 - A background check reveals the person's old name or gender
 - A transgender person fills out forms with their current name or gender, even though they may not be “legally changed”
- Solutions:
 - Don't discriminate when transgender status is discovered
 - Make allowances for people who earnestly fill out forms or give information that matches their gender identity

Dress Codes

- Employers would do best to institute dress codes that require clean, neat, well-groomed professional appearance or gender neutral uniforms.
- Transgender employees should be permitted to dress in accordance with the gendered dress standard which is appropriate to their gender identity
- Discrimination on the basis of gender expression is prohibited by law, there is no exception for dress codes

Gender Transition Guidelines

- Institute protocols for gender transitions that clearly delineate responsibilities and expectations of transitioning employees, their supervisors, colleagues and other staff
- These policies should address:
 - who in the business is charged with helping a transitioning employee manage his/her workplace transition;
 - what a transitioning employee can expect from management;
 - what management's expectations are for staff, transitioning employees, and any existing LGBT employee group in facilitating a successful workplace transition; and
 - what the general procedure is for implementing transition-related workplace changes, such as adjusting personnel and administrative records, as well as a communication plan for coworkers and clients.
 - answers to frequently asked questions about dress codes and restroom use.

Other Suggestions

- Change your language
 - Say “...your partner, he or she...”
 - Remove gender binaries on forms (husband/wife vs. spouse)
 - Mirror language people use for themselves and their partners
- Post and enforce all anti-discrimination policies
 - It is **the law**
 - It increases morale and makes for more productive workers
- Show your openness
 - Wear or post LGBT inclusive stickers and pins
 - Assure confidentiality, make coming out safe