Panel Handout: LGBT Issues in Higher Education Labor Relations -
Federal Sector Cases Involving Transgender Individuals

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Federal Sector Cases Involving Transgender Individuals

- **Macy v. Dep't of Justice, EEOC Appeal No. 0120120821, 2012 WL 1435995 (April 20, 2012)** (decision by Commission holding that intentional discrimination against a transgender individual because that person is transgender is, by definition, discrimination based on sex and therefore violates Title VII).
- **Jameson v. U.S. Postal Service, EEOC Appeal No. 0120130992, 2013 WL 2368729 (May 21, 2013)** (intentional misuse of the employee's new name and pronoun may cause harm to the employee, and may constitute sex based discrimination and/or harassment).
- **Complainant v. Dep't of Veterans Affairs, EEOC Appeal No. 0120133123, 2014 WL 1653484 (Apr. 16, 2014)** (a sex discrimination allegation involving the failure to revise agency records pursuant to changes in gender identity stated a valid Title VII claim).
- **Lusardi v. Dep't of the Army, EEOC Appeal No. 0120133395, 2015 WL 1607756 (April 1, 2015)** (decision by Commission holding that Agency restrictions on transgender female's ability to use a common female restroom facility constituted disparate treatment on the basis of sex and that the restroom restrictions combined with hostile remarks, including intentional pronoun misuse, created a hostile work environment on the basis of sex).

Federal Sector Cases Involving Lesbian, Gay, or Bisexual Individuals

- **Baldwin v. Dep't of Transportation, EEOC Appeal No. 0120133080 (July 15, 2015)** (decision by the Commission holding that a claim alleging discrimination on the basis of sexual orientation necessarily states a claim of discrimination on the basis of sex under Title VII).
- **Veretto v. U.S. Postal Service, EEOC Appeal No. 0120110873, 2011 WL 2663401 (July 1, 2011)** (complainant's allegation of sexual orientation discrimination was a claim of sex discrimination because it was based on the sex stereotype that marrying a woman is an essential part of being a man).
- **Castello v. U.S. Postal Service, EEOC Request No. 0520110649, 2011 WL 6960810 (Dec. 20, 2011)** (complainant's allegation of sexual orientation discrimination was a claim of sex discrimination because it was based on the sex stereotype that having relationships with men is an essential part of being a woman).
- **Baker v. Social Security Admin., EEOC Appeal No. 0120110008, 2013 WL 1182258 (Jan. 11, 2013)** (the Commission held that long as the allegations state a viable claim of sex discrimination, the fact that a Complainant has characterized the basis of discrimination as sexual orientation does not defeat an otherwise valid sex discrimination claim).
- **Dupras v. Dep't of Commerce, EEOC Request No. 0520110648, 2013 WL 1182329 (Mar. 15, 2013)** (citing Macy, OFO reversed a previous decision and held here that Complainant did in fact state a valid sex stereotyping claim).
- **Culp v. Dep't of Homeland Security, EEOC Appeal No. 0720130012, 2013 WL 2146756 (May 7, 2013)** (complaint stated a claim of sex discrimination under Title VII where supervisor counseled complainant that associating with lesbian colleague created an improper perception).
- **Brooker v. U.S. Postal Service, EEOC Request No. 0520110680, 2013 WL 4041270 (May 20, 2013)** (the Commission found that Complainant stated a valid harassment claim based on sex stereotyping).
- **Morris v. Dep't of the Army, EEOC Appeal No. 0120130749, 2013 WL 4499198 (May 23, 2013)** (the Commission reversed and remanded an Agency's dismissal where Complainant alleged that he was subjected to a hostile work environment when he was told "you are in the South now, you and [your partner] might find you are not as safe or accepted here as you were in New York. This is the Bible Belt.").
- **Couch v. Dep't of Energy, EEOC Appeal No. 0120131136, 2013 WL 4499198 (Aug. 13, 2013)** (relied on the use of derogatory slurs to prove a sex stereotyping claim; the Commission noted that the words "fag" and "faggot" have been historically used in the United States as a highly offensive, insulting, and degrading sex-based epithet against gay men and men who are perceived as insufficiently masculine).
- **Complainant v. Dep't of Transportation, EEOC Appeal No. 0720140023, 2014 WL 3790725 (July 24, 2014)** (affirmed Administrative Judge finding of harassment based on sexual orientation).
- **Complainant v. DHS, EEOC Appeal No. 0120110576, 2014 WL 4407422 (Aug. 20, 2014)** (recognizing that sex discrimination claims intersect with sexual orientation discrimination claims such that allegations of discrimination on the basis of sexual orientation can be construed as claims of discrimination on the basis of sex).
- **Complainant v. U.S. Postal Service, EEOC Appeal No. 0120123452, 2014 WL 6853897 (Nov.18, 2014)** (remanding for a consolidated investigation of sexual orientation based sex harassment claims and noting that a number of federal district courts have recognized that allegations of discrimination of the basis of stereotypes related to sexual orientation are often, if not always, claims of discrimination based on sex).
Complainant v. Consumer Financial Protection Bureau, EEOC Appeal No. 0120141108, 2014 WL 7398828 (Dec. 18, 2014) (advised the Agency that lesbian, gay, and bisexual employees who believe they have been discriminated against because of their sexual orientation should be counseled that they have a right to file a complaint under the 1614 process because they may have experienced sex discrimination; also strongly recommended that the Agency provide updated training to all employees and management on Title VII's prohibition of discrimination based on sexual orientation and gender stereotyping).

Complainant v. U.S. Postal Service, EEOC Appeal No. 0120133382 2015 WL 755097(Feb. 11, 2015) (held that hateful nature of the alleged comments calling Complainant "homo" and telling him he was "living in sin" and would be "going to hell" coupled with the alleged lack of adequate response on the part of management, sufficiently severe to state a viable claim of harassment due to gender-based stereotyping that required further investigation and processing).