

MOVING BEYOND BIAS

HOW TO ENSURE ACCESS
TO JUSTICE FOR LGBT PEOPLE

A Training Curriculum Prepared by
Lambda Legal's Fair Courts Project for Judges, Attorneys
and Other Legal Professionals



Lambda Legal
making the case for equality

ABOUT MOVING BEYOND BIAS

This curriculum was created to provide a model for educating judges, attorneys and other legal professionals about sexual orientation, gender identity and the needs of LGBT people in the legal system. **It is intended to be used in conjunction with the accompanying PowerPoint presentation.** Systemic bias and discrimination impede access to justice in the courts for LGBT people and people living with HIV; this is especially true for transgender people, people of color and others with multiple marginalized identities. Such biases are greatly reduced in the face of information about the lives of LGBT people.

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ABOUT LAMBDA LEGAL

Founded in 1973, Lambda Legal is the oldest and largest national legal organization whose mission is to achieve full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and everyone living with HIV through impact litigation, education and public policy work.

ABOUT THE FAIR COURTS PROJECT

Lambda Legal's Fair Courts Project works to advance an independent, diverse and well-respected judiciary that upholds the constitutional and other legal rights of LGBT people and everyone living with HIV. The communities that Lambda Legal represents depend upon fair and impartial courts to ensure access to justice.

PREPARING FOR YOUR TRAINING

REVIEW THE CURRICULUM

Be sure to read through this guide and the accompanying PowerPoint slides in advance of the training and familiarize yourself with both. They can be used as is or modified according to the specific kind of legal audience and/or jurisdiction of the participants. The entire training will take two to two and a half hours to complete. However, shorter trainings using only a portion of the material are also feasible.

RESOURCES TO BE FAMILIAR WITH BEFORE THE TRAINING

- *Protected and Served?* www.lambdalegal.org/protected-and-served
- *Know Your Rights in Court*, www.lambdalegal.org/know-your-rights/in-court
- M. Dru Levasseur, Esq., *Gender Identity Defines Sex: Updating the Law to Reflect Modern Medical Science is Key to Transgender Rights*, 39 VT. L. REV. 943 (2015), lawreview.vermontlaw.edu/wp-content/uploads/2015/05/39-4-06_Levasseur.pdf.
- “Jury Selection and Anti-LGBT Bias: Best Practices in LGBT-Related Voir Dire and Jury Matters,” www.lambdalegal.org/know-your-rights/article/in-court-jury
- Interact Advocates for Intersex Youth, *Intersex 101: A Beginner’s Guide*, www.interactadvocates.org/wp-content/uploads/2017/03/INTERSEX101.pdf
- The terminology defined throughout this guide

RESOURCES TO HAND OUT TO PARTICIPANTS

- Postcards about *Protected and Served?* (Lambda Legal can provide)
- Palm cards about *Know Your Rights in Court* (Lambda Legal can provide)
- Two-page summary of *Protected and Served?*
- A printout of “Jury Selection and Anti-LGBT Bias: Best Practices in LGBT-Related Voir Dire and Jury Matters” (if appropriate for the audience; Lambda Legal can provide copies in advance or visit www.lambdalegal.org/know-your-rights/article/in-court-jury)
- Terminology Activity Sheet (if using) (Appendix B)
- Evaluation Form (Appendix C)

RESOURCES TO POST IN THE ROOM

- Trainers’ names and contact information (can be listed in a PowerPoint)
- Lambda Legal Help Desk number: 1-866-542-8336
- Web address of *Know Your Rights in Court* on the Lambda Legal website (www.lambdalegal.org/know-your-rights/in-court)
- Web address of the court section of *Protected and Served?* on the Lambda Legal website (www.lambdalegal.org/protected-and-served/courts)

COMPLETE LIST OF WHAT YOU'LL NEED FOR THE TRAINING

- ✓ Resources to hand out
- ✓ PowerPoint presentation
- ✓ This guide
- ✓ A computer and projector (with sound capability)
- ✓ Name tags with space for name and pronouns

Other considerations before the training:

- Remember to consider the space where the training will be held. The comfort of participants is very important for ensuring an environment where people can learn. Make sure to provide participants with information on how to submit requests for accommodations, such as access to a nearby restroom, for instance, or printed slides for those unable to view the PowerPoint presentation. Follow up with facility or training organizers to ensure such accommodations will be provided.
- Think about all your technology needs before the presentation. For instance, you'll be playing a video during the training, so you'll need to make sure there are speakers loud enough for participants to hear the video.
- Keep in mind that there may be people with a range of identities in the room. There may or may not be people who are gay, lesbian, bisexual, transgender, intersex or have other identities that will be discussed during the training in the room. Make time for participants to ask questions and share their own stories if they choose, but don't rely on participants who are LGBT to be representative of their communities.
- There will be people in the room with a range of familiarity with the issues being discussed, so remember to use vocabulary that everyone will understand, defining terms as you go.
- Make sure you have a good grasp of best practices and are able to guide discussions toward them.
- Prepare for difficult questions. Discussing gender identity and sexual orientation can elicit a range of responses from people. You may want to think about what is in the news locally, nationally or globally. Be prepared for the possibility that there may be frustration or hostility coming from one participant or more. If you ever feel you are not able to answer a particular question, feel free to reach out to Fair Courts Project Attorney Ethan Rice at erice@lambdalegal.org or (212) 809-8585 ext. 242.



TRAINER NOTES

INTRODUCTIONS & EXPECTATIONS

INTRODUCTION OF TRAINER

SLIDE #1 (1-2 minutes)

Add your own name, title, pronouns and contact information to the slide ahead of time.

Tell participants who you are, including your pronouns, organization, etc. Explain what brings you to this work as a trainer/educator.

INTRODUCTION OF PARTICIPANTS

SLIDE #2 (if time allows, depending on size of audience and time allowed for training)

Keep introductions to a few minutes total unless the trainer feels the participants need to become more acquainted with each other.

Ask participants to introduce themselves to the group and the trainer. If it is a particularly large group, have them introduce themselves to the people around them.

Have participants state their name, pronouns, role in the organization/court/office and one expectation or hope they have for today's training. It is important for participants to state their pronouns.

EXPECTATIONS FOR EVERYONE

SLIDE #3 (2-3 minutes)

If discussing particular expectations mentioned by participants or the trainer might help increase participants' comfort as well as their participation, talk about them here. Open it up to the group to see if anyone has any other needs and whether everyone agrees with these expectations. Make it fun! Let everyone know these are intended to create a safe space where everyone feels comfortable to talk and ask questions.

- Confidentiality: Personal stories, identities and experiences that are shared by participants or trainers should stay in the room unless others explicitly allow for this information to be shared. On the other hand, concepts, terminology and best practices should be shared widely with colleagues, family and friends.

- Respect: One person speaks at time.
 - » Respect each other by understanding that everyone comes to this with a different set of experiences.
 - » Avoid generalizations about groups of people during discussions and when asking questions.
 - » Let people know that you are willing to take questions throughout the presentation but may wait to answer some questions a little later if it helps to keep the presentation on track. Mention any other housekeeping matters at this point.

Note: It is helpful to ask if people have questions they want to address after each section is complete.

GOALS OF THE TRAINING (1-2 minutes)

SLIDE #4

Explain that participants will:

- Be introduced to and better understand terminology related to sexual orientation, gender identity and gender expression.
- Better understand the experiences of LGBT people.
- Leave with new strategies for working with LGBT people in the legal system.
- Gain a better picture of the challenges that LGBT people may have in the courtroom and when working with attorneys and court staff.
- Leave with new resources to better engage with LGBT people in your legal work.

CONCEPTS & TERMINOLOGY

Slide #5-8 (10-15 minutes)

SLIDE #5

Explain that there are some definitions to review in order to ensure all participants are on the same page. Go over some very basic definitions needed to have this discussion. Explain the definitions of “sexual orientation,” “gender identity” and “gender expression.” Explain that each person has a sexual orientation, gender identity and gender expression. That each of these is a spectrum rather than a binary of gay or straight, male or female, masculine or feminine (respectively). There are individuals who are not on the binary for each of these categories. Explain that the following are not correlated to each other.

Sexual orientation is a person’s romantic, physical and/or sexual attraction to same-sex and/or different-sex people. Sexual orientations include: gay, lesbian, bisexual and others.

Gender identity, also called “brain sex,” is one’s deeply felt internal sense of being male,

female, both, or neither. It is the primary determinant of sex.

Gender expression refers to the way a person expresses gender through dress, grooming habits, mannerisms and other characteristics.

SLIDE #6

Have participants say out loud what they believe each letter on this slide stands for. It is a helpful way to get engagement and break down the barriers people have to saying these words out loud. Many people will not know what all of these stand for or what the words mean. So go through them all and take questions.

L - Lesbian - Refers to a woman who is primarily attracted romantically and/or sexually to other women.

G - Gay - A term that can be used to describe either a male whose primary sexual and romantic attraction is to other males or to reference anyone whose primary sexual and romantic attraction is to a person who is the same sex as themselves.

B - Bisexual - A sexual orientation or identity describing one’s sexual, romantic and/or affectional attraction to people of the same sex

and people of different sexes. Many bisexual-identified people are attracted to a spectrum of gender identities or expressions and recognize a non-binary gender paradigm.

T - Transgender - An umbrella term that refers to people who have a gender identity different than the sex they were assigned at birth. It can also apply broadly to people who transgress gender norms. Transgender people may or may not undergo a medical transition.

Q - Queer - An umbrella term used by people who reject conventional categories such as LGBT or embrace a political identity as “queer” in addition to being LGB and/or T. It also may include straight or cisgender people who embrace a non-normative or counter-normative sexual identity. Offensive when used as an epithet.

Q - Questioning - A process of exploration for people who may be unsure of their sexual orientation or gender identity. Most often used when discussing youth.

I - Intersex - An umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated “male” or “female.” In some cases, intersex traits are visible at birth, while in others they are not apparent until puberty. Some intersex variations may not be visibly apparent at all. Some people who are intersex identify as binary; others do not.

A - Asexual - Describes people who do not experience sexual attraction. Unlike celibacy, which denotes the purposeful abstention from sex that one would otherwise enjoy, asexuality is an intrinsic lack of interest in sexual activity. Many asexual people experience romantic and

affectionate feelings towards others but do not desire to express those feelings in a sexual way. Other asexual people are uninterested in romantic relationships and focus instead on forming platonic bonds. Like any community, asexual people are diverse.

2-S - Two-spirit - A term that refers to historical and current First Nations or Native American people whose individual spirits blend male and female. This term has been reclaimed by some in Native American LGBT communities to honor their heritage and provide an alternative to the labels gay, lesbian, bisexual or transgender.

Note that there is not universal agreement on identity terminology and that some of these terms can still be used as slurs, but that it is important to recognize that even if you may be unfamiliar or uncomfortable with an identity, if someone tells you they identify as such and asks to be referred to as such, you should respect the person’s right to self-determination and self-identification.

SLIDE #7

Explain the definitions of “sex assigned at birth” and “cisgender.”

- **Sex assigned at birth** is the sex designation given to someone at birth, usually by a medical professional and generally based on appearance of external genitalia.
- **Cisgender** refers to people who have a gender identity that is the same as the sex they were assigned at birth.

Provide an example or examples to further explain sexual orientation, gender identity and gender expression. Examples could include: an individual who has a gender identity of female and a traditionally feminine gender expression, is exclusively attracted to other women and was assigned male at birth. She is likely a transgender woman who is a lesbian (although it's up to her to tell us what her identities are).

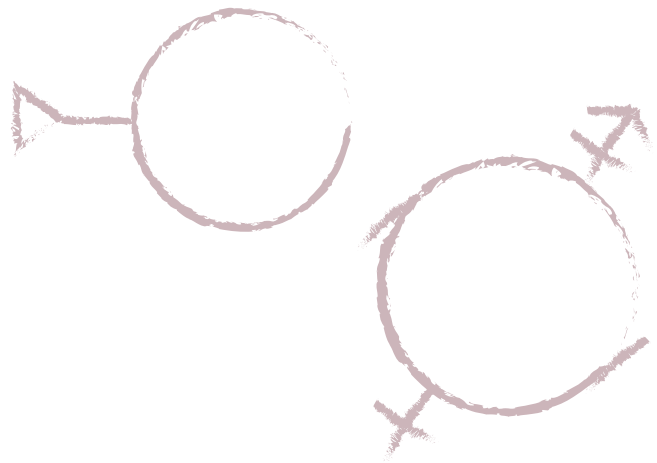
SLIDE #8

The Trans* Umbrella. Review the terms in this slide with the audience, explaining that the terms on top of the umbrella are identities that may or may not identify as trans. Under the umbrella on the left side are terms that are associated with non-binary identities, and on the right side are terms that are associated with binary trans identities.

Crossdresser - A person who wears clothing traditionally worn by members of a different sex. Crossdressers are often comfortable with the sex they were assigned at birth and do not wish to transition. While crossdressing is a form of gender expression, it is not necessarily tied to sexual orientation or erotic activity. Many crossdressers are heterosexual and/or cisgender.

Agender - Literally “without gender.” Some agender people identify as having no gender and others with a non-binary identity.

Third Gender - Third gender or third sex is a concept in which individuals are categorized, either by themselves or by society, as neither man nor woman. It also describes a social category present in societies that recognize three or more genders.



Genderqueer – A term used by some people who identify their gender as being somewhere on the continuum between, or outside of, the binary gender system. Genderqueer people may or may not also identify as transgender. This should only be used if the individual identifies as genderqueer.

Gender-fluid – A term used by people who identify their gender as fluid within a spectrum of gender identities and expression.

Gender-nonconforming - A term used to describe people who do not meet society's expectations of gender roles. Not all gender-nonconforming people are transgender and not all transgender people are gender-nonconforming.

Non-binary - Describes gender identities that do not fit within the binary of male or female. Refers to a spectrum of gender.

They, Them, Ze, Hir, Xe, Xem are pronouns that some individuals use if they have gender identities that do not fit in with the binary of male or female.

Transsexual - An older term that originated in the medical and psychological communities. Still preferred by some people who have changed—or seek to change—their bodies through medical interventions (including but not limited to hormones and/or surgeries). Unlike transgender, transsexual is not an umbrella term, and many transgender people do not identify as transsexual.

MTF - Male to Female - Initials or phrase no longer considered appropriate to describe someone who is transgender, as it focuses on the sex assigned at birth and insinuates that a transgender person was a male who became a female, instead of a woman who was assigned the incorrect sex at birth. Some people still do use this term to describe themselves.

FTM - Female to Male - Initials or phrase no longer considered appropriate to describe someone who is transgender, as it focuses on the assigned sex at birth and insinuates that a transgender person was a female who became a male, instead of a male who was assigned the incorrect sex at birth. Some people still use this term to describe themselves.

MAAB or FAAB - Male Assigned at Birth or Female Assigned at Birth.

She, Her, He, Him - Binary pronouns used by many people who are female or male, respectively.

CULTURAL COMPETENCY

SLIDE #9 (10 minutes)

Ask participants: “How can learning about lesbian, gay, bisexual and transgender people increase access to justice, fair outcomes and trust being placed in the court and legal system?”

After taking two or three responses, explain that LGBT people and people living with HIV are involved in the legal system in many capacities. While a transgender person may access the courts for a name change, for instance, or a court order changing their sex designation, they may also be involved in family law cases, criminal cases, probate cases and many other kinds.

Next, emphasize that many LGBT people and people living with HIV report negative experiences in the courts. Empirical studies by judicial commissions and bar associations have found that bias related to sexual orientation, for instance, significantly and negatively impacted court users’ court system experiences in California and New Jersey.¹

► **Slides #10-14** Present selected data from *Protected and Served?*, Lambda Legal’s 2012 survey

SLIDE #10 At Slide #10, explain that Lambda Legal conducted a survey in 2012 of 2,376 people who identified as one or more of: LGB, questioning, queer, same-gender-loving (a term, most often used in communities of color, to describe people with same-sex attractions), other sexual orientation, transgender, two-spirit, genderqueer, gender-nonconforming, other gender identity, HIV-positive. The findings presented are taken from this national survey.²

SLIDE #11 Review percentage of study respondents who heard negative comments about sexual orientation, gender identity, gender expression and HIV status in court. For instance, 19% of those surveyed heard a judge, attorney or other court employee make negative comments about a person’s sexual orientation, gender identity or gender expression. And 6% heard negative comments about an individual’s HIV status.

1. See Todd Brower, *Twelve Angry—And Sometimes Alienated—Men: the Experiences and Treatment of Lesbians and Gay Men During Jury Service*, 59 Drake L. Rev. 669, 674 (Spring 2011) (examining empirical studies in California and New Jersey that evaluated the experiences of lesbians and gay men with the court system).
2. For more information about how the survey was conducted visit: [https://www.lambdalegal.org/protected-and-served/summary#HOW THE SURVEY WAS CONDUCTED](https://www.lambdalegal.org/protected-and-served/summary#HOW%20THE%20SURVEY%20WAS%20CONDUCTED)

SLIDE #12 Point out clearly that individuals with intersecting marginalized identities face bias and discrimination at higher rates. While 19% of all respondents heard negative comments, 28% of low-income people, 30% of people of color, 33% of transgender and gender nonconforming people, 53% of transgender and gender nonconforming people of color and 66% of transgender women responding to the survey heard negative comments about sexual orientation or gender identity in court.

SLIDE #13 Among court-involved respondents, 16% reported that their LGBT identity was raised in court when sexual orientation and gender identity were not relevant to the case;

11% reported that their sexual orientation or gender identity was made known in court against their will;

15% reported having their HIV status raised in court when it was not relevant to the case.

SLIDE #14 At Slide #14, point out that only 28% of transgender and gender non-conforming people surveyed “generally trust” the courts. Overall trust in the courts across survey respondents was lower than trust in the police.

Explain to participants that these findings support what is known anecdotally and what Lambda Legal and other organizations hear from Help Desk callers, namely that implicit and explicit bias and lack of understanding about LGBT people, HIV, gender identity and expression and sexual orientation remain serious issues impacting courts at all levels throughout the country.

EXPERIENCES OF LAMBDA LEGAL CLIENTS

SLIDE #15 (2-3 minutes)

- Tell the story of Daunn Turner to illustrate a specific example of a transgender person facing bias in the courts:

While applying for a name change at the Will County, Illinois Courthouse, Daunn Turner, a transgender woman, was subjected to discrimination from the Chief Judge. She was denied a ruling on her request for the name change, denied a fee waiver based on her low-income status and, despite requests to be called either “Daunn” or “Miss Turner,” was told that she would be referred to as “Mister” until she had “that surgery.” When she asked the Chief Judge if she could appeal the decision, the Chief Judge claimed he was the final decision maker, and that she should ask for money from friends on her upcoming birthday to fund the court fees for a name change.

ICEBREAKER EXERCISE

SLIDE #16 (10-15 minutes including report-back)

Have participants break into pairs (or triads if there is an odd number of people). Ask participants to share their first memory of gender (e.g. being a gendered person, recognizing that a gender binary exists in the world, noticing societal distinctions or expectations based on gender, etc.).

Allow 2.5 minutes for each person to share a story with their partner. Provide participants with an indication of when they should switch stories and also give a 30-second wrap-up warning.

Ask for a volunteer who would like to share their memory/story with the group. Depending on time, take two or three volunteers and/or share your own story or memory.

Wrap up the exercise by asking if any participants want to share about the experience of going through this exercise. Were there any surprises or interesting takeaways?

Note: Participants often raise a wide range of memories or experiences including, but not limited to, toys, clothing, sports teams, gym class, bathrooms, genitalia, etc.

FOCUS ON GENDER IDENTITY & INTERSEX STATUS

SLIDES #17-29 (15-20 minutes)

SLIDE #17 Ask who in the room has a gender identity. Take a few responses and then explain that everyone in this room—cisgender, transgender, intersex—has a gender identity. You are the gender you know yourself to be, not because of your genitals but because of your gender identity. For most people it's aligned, so they haven't necessarily been aware of their gender identity, but that is why you are the gender you are too.

Reiterate that gender identity is a “spectrum” or “universe of possible identities.” Note that the federal government recognized non-binary identities in the rule implementing section 1557 of the Affordable Care Act: “Gender identity means an individual’s internal sense of gender, which may be male, female, neither, or a combination of male and female, and which may be different from an individual’s sex assigned at birth. The way an individual expresses gender identity is frequently called ‘gender expression,’ and may or may not conform to social stereotypes associated with a particular gender. A transgender individual is an individual whose gender identity is different from the sex assigned to that person at birth.”³

SLIDE #18

Explain that medical science has identified at least nine defining characteristics that inform or determine sex, including but not limited to:⁴

- Chromosomes (There are more than just xx and xy possibilities for human sex chromosomes, including x 0[single x] and xxy.)
- Gonads (testes or ovaries)
- External Morphologic Sex (external genitals, such as penis, clitoris, vulva)
- Internal Morphologic Sex (internal organs, such as uterus, vagina, Fallopian tubes, seminal vesicles, prostate)
- Fetal Hormones (prenatal hormones produced by gonads)
- Pubertal Hormones (explain that most people have testosterone and estrogen in varying degrees)
- Secondary sex characteristics (such as facial hair or breasts)
- Sex of assignment and rearing (the sex assigned at birth and that the individual was raised consistently with)
- Most importantly, the primary determinant of sex is **gender identity** or **brain sex**

Explain each one of these and highlight that science is confirming what transgender people have

3. 45 C.F.R. § 92.4 (2016).
4. Trainers should be familiar with, M. Dru Levasseur, Esq., Gender Identity Defines Sex: Updating the Law to Reflect Modern Medical Science is Key to Transgender Rights, 39 VT. L. REV. 943 (2015), http://lawreview.vermontlaw.edu/wp-content/uploads/2015/05/39-4-06_Levasseur.pdf. Trainer should also review some of the cases and other sources cited in this law review article such as: Julie A. Greenberg, Defining Male and Female: Intersexuality and the Collision Between Law and Biology, 41 ARIZ. L. REV. 265, 278 (1999), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=896307 (listing seven medically recognized factors composing a person’s gender, including “personal sexual identity”); Julie A. Greenberg & Marybeth Herald, You Can’t Take It With You: Constitutional Consequences of Interstate Gender Identity Rulings, 80 WASH. L. REV. 819, 825–26 (2005), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=823764 (discussing eight factors that contribute to a person’s sex, including gender identity). The nine determinants of sex, a number frequently used by advocates, comes from Dr. Walter Bockting’s testimony in *Schroer v. Billington* (described in Gender Identity Defines Sex (citation above)), an employment discrimination case against the Library of Congress. These nine are: chromosomal sex, gonadal sex, fetal hormonal sex (prenatal hormones produced by the gonads), internal morphologic sex (internal genitalia, i.e., uterus, testes), external morphological sex (external genitalia, i.e., penis, clitoris, vulva), hypothalamic sex (i.e., sexual differentiations in brain development and structure), sex of assignment and rearing, pubertal hormonal sex and gender identity.

known from their own experience, that “brain sex” or what advocates refer to as “gender identity,” one’s deeply felt inner sense of being male, female or another gender, is the primary determinant of one’s sex. Explain that research indicates gender identity is an immutable characteristic and has a biological basis.⁵ Like so-called “conversion therapy” that is aimed at “changing” one’s sexual orientation, therapies that have been aimed at changing a person’s gender identity are inappropriate, ineffective and harmful.

SLIDE #19 Explain what “intersex” means. Explain that many people who are intersex have a gender identity that is the same as the sex they were assigned at birth. But others do not.

Intersex is not a gender identity. People who are intersex may be male, female or nonbinary. Some intersex people are transgender and some are cisgender.

- **Intersex** - An umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated “male” or “female.” In some cases, intersex traits are visible at birth, while in others they are not apparent until puberty. Some intersex variations may not be visibly apparent at all. Many people who are intersex identify as either male or female; others do not.

SLIDE #20 On June 10, 2016, a Circuit Court Judge in Multnomah County, Oregon issued what is believed to be the first court order in the United States recognizing “non-binary” as the legal sex designation of an individual, to Jamie Shupe.⁶ The second court order of this type issued in the U.S. was granted in California on September 26, 2016 to Sara Kelly Keenan, an intersex individual who uses female pronouns.⁷ Recently, New York City issued Sara a birth certificate reflecting “intersex” in the box marked for sex designation.

Explain here that there are other countries that recognize sex designations outside of male and female. For example, in India transgender people have the right to legal recognition of their identity as male, female or third gender.⁸ The third gender is generally called hijras. Hijras generally identify themselves as neither men nor women, though some may identify themselves as transgender women. Trainer can add more examples.

5. See Julie A. Greenberg & Marybeth Herald, You Can’t Take It With You: Constitutional Consequences of Interstate Gender Identity Rulings, 80 WASH. L.REV. 819, 830-832 (2005), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=823764
6. <https://thelawworks.wordpress.com/2016/06/10/oregon-judge-grants-sex-change-to-non-binary>.
7. <http://www.nbcnews.com/feature/nbc-out/californian-becomes-second-us-citizen-granted-non-binary-gender-status-n654611>.
8. See, *National Legal Services Authority v. Union of India*, <http://supremecourtindia.nic.in/outtoday/wc40012.pdf>.

SLIDE #21 Use the example of Lambda Legal’s intersex client Dana Zzyym to explain one of the barriers intersex and nonbinary people can have to participating fully in society.⁹ Dana was born with ambiguous sex characteristics, but Dana’s parents and doctor decided to raise them as a boy and, as a child, Dana had irreversible and medically unnecessary surgeries. Because Dana does not identify as male or female, they were unable to obtain a passport to travel for the International Intersex Forum in Mexico City in 2014. Dana sought to have an “X” gender marker listed on their passport, a practice that is recognized by the International Civil Aviation Organisation, the UN agency that sets international travel document standards. Most countries that offer a third gender marker option use X for their passports. Dana was denied a passport with an “X,” however, and was told they must choose either “male” or “female.” Lambda Legal filed a complaint in the District of Colorado asserting that the U.S. State Department is violating the Due Process and Equal Protection clauses of the U.S. Constitution, as well as the federal Administrative Procedure Act, by denying Dana a passport that accurately reflects their gender.

SLIDES #22&23 Transition to a discussion of terms to avoid. The slides fully explain the terms and why they should be avoided.

SLIDE #24 Note that there is a shortage of data showing how many people in the U.S. are transgender.¹⁰ Nonetheless, a June 2016 report from The Williams Institute (citation in footnote) estimates that 1.4 million people or 0.6% of the U.S adult population is transgender. A good source for information about the experiences of transgender individuals is the 2015 “U.S. Trans Survey” conducted by the National Center for Transgender Equality, which received responses from 27,715 transgender adults.¹¹

SLIDE # 25 Define the term “gender dysphoria.” Explain that if a court is addressing cases with issues that are specific to transgender people, this term may be used. Review statements by the American Psychological Association¹² and the American Medical Association¹³ showing that treatments generally described as part of “gender transition” have been found to be medically necessary and appropriate for transgender people.

9. http://www.lambdalegal.org/in-court/cases/co_zzyym-v-kerry.

10. Flores, A.R., Herman, J.L., Gates, G.J., & Brown, T.N.T. (2016). *How Many Adults Identify as Transgender in the United States?* Los Angeles, CA: The Williams Institute, available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/How-Many-Adults-Identify-as-Transgender-in-the-United-States.pdf>

11. <http://www.ustranssurvey.org/report>

12. American Psychological Association, Resolution on Transgender, Gender Identity and Gender Expression Non-discrimination, August 2008, available at <http://www.apa.org/about/policy/transgender.aspx>

13. American Medical Association, Removing Financial Barriers to Care for Transgender Patients, Resolution 122 (A-08), available at http://www.tgender.net/taw/ama_resolutions.pdf

- **Gender dysphoria** - A clinical psychiatric diagnosis, first listed in the *DSM-V*, that describes an intense, continuous distress resulting from an individual's sense of the inappropriateness of their assigned sex at birth. In previous versions of the DSM, gender dysphoria was known as gender identity disorder (GID).

SLIDE #26 Explain what “**gender transition**” means.

“Transition” or “gender transition” describes the time when a person begins to living as the sex with which they identify rather than the sex they were assigned at birth. Transition **may or may not** include medical or legal aspects such as taking hormones, having surgeries or correcting the sex designation on identity documents. Social transition is the most important aspect for transgender people, and sometimes the only one. Social transition refers to a transgender person living socially as their true self, which may include such things as:

- Use of a different name
- Use of different pronouns
- Transformations of the physical appearance (e.g. wearing different clothing, adopting a different haircut)
- Use of a bathroom that corresponds with gender identity
- Other differences in social role, living situation, etc. (e.g. moving to a college dorm whose residents are members of the person's true sex)

SLIDE #27 Transition to addressing myths about transgender people. Explain that transgender people have individualized experiences: There is no one narrative. Some transgender people seek to medically transition by taking hormones or having surgeries or both. Some do not. Some transgender people socially transition by telling family and/or friends to use different pronouns or a different name when referring to them and this is the only transition they need. Explain that it is not appropriate to have a person's transgender status or their sex designation dependent upon a certain medical procedure.

SLIDE #28 Explain that not all transgender people need or want to have surgeries to bring their bodies in line with societal expectations of their gender identity. Transgender people must be respected as who they are, whether or not they have had medical procedures. It isn't appropriate to ask cisgender people about their genitals and it is not appropriate to ask transgender people about theirs. Unless the case is about health care or it is about issuing an order related to the individual's sex in a jurisdiction that requires information about medical procedures, it is not okay

to ask these questions. Explain that a person’s transgender status has been established as private medical information protected by the U.S. Constitution. The Second Circuit held “the Constitution does indeed protect the right to maintain the confidentiality of one’s transsexualism.”¹⁴

SLIDE #29

VIDEO (7 minutes and 16 seconds)

Show Lambda Legal's "I Believe in Me" video featuring Donisha McShan. After the video is over, ask if there are questions or if anyone has anything they'd like to discuss.

14. *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) additionally the court said, (“[T]he excruciatingly private and intimate nature of transsexualism, for persons who wish to preserve privacy in the matter, is really beyond a doubt.”).

TRAINER NOTES

FOCUS ON SEXUAL ORIENTATION

SLIDES #30-36 (15 minutes)

SLIDE #30 Transition to the concept of sexual orientation and reiterate that gender identity and sexual orientation are two distinct, but intersecting, aspects of human identity. Ask how many people think they have a sexual orientation? Explain that everyone has a sexual orientation, a romantic, physical or sexual attraction to same-sex or different-sex people or no attraction to anyone (asexual). The spectrums shown in the graphic show romantic and sexual orientations as separate orientations. Most people still use sexual orientation to describe their romantic attractions, but some people have romantic attractions that do not coincide with their sexual attractions or lack sexual attractions or romantic attractions completely.

SLIDE #31 Explain that the best estimates have found that approximately 3.5% of adults in the United States identify as lesbian, gay or bisexual. This is over 8 million adults.¹⁵ As of October 2015, 486,000 same-sex couples were married, or 45% of all same-sex couples.¹⁶

SLIDE #32 Review what terminology to avoid. Explain that “homosexual” is an outdated and clinical term and that “gay” or “lesbian” is preferable to use for someone who identifies as having exclusively same-sex attraction. Also note that language changes and evolves. Note that this training is merely providing a baseline for terminology to be used or avoided. There are differences of opinion regarding all terminology, and individuals may differ in the language they use to explain their identities and the definition they give to those terms. Explain that some people may use certain terms to describe themselves that they do not wish others to use. It is important to use the language that someone wishes you to use.

EXPERIENCES OF LGBT PEOPLE IN THE COURTS

SLIDE #33 Discuss custody, adoption and immigration cases as examples of where bias toward LGBT people can create real harms in court. Focus on bisexual individuals and how attitudes toward their sexual orientation have caused harms in these types of cases.¹⁷

15. Gates, G.J. (2011). *How many people are lesbian, gay, bisexual, and transgender?* Los Angeles, CA: The Williams Institute, available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf>
16. Gates, G. J., Brown, T. N. T. 2015. Marriage and Same-sex Couples after *Obergefell*. Los Angeles, CA: Williams Institute, UCLA School of Law. <http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/marriage-and-same-sex-couples-after-obergefell/>
17. See, Nancy C. Marcus, *Bridging Bisexual Erasure in LGBT-Rights Discourse and Litigation*, 22 Mich. J. Gender & L. 291 (316-318). Available at: <http://repository.law.umich.edu/mjgl/vol22/iss2/2>. This section and examples are taken from this journal article.

Custody and Adoption - A Mississippi Court of Appeals held: “[I]n addition to the mother’s bisexual lifestyle, the chancellor was disturbed at the mother’s lack of financial and emotional stability. He was extremely concerned that the mother quit a well-paying full time job to move to Gulfport to start a business. The chancellor was most impressed with the father’s ability to provide a stable environment for his daughter in the form of an established home in which she would have her own bedroom and would be living in a traditional family environment. As in *Weigand* and *Thompson*, although the morality of the mother’s lifestyle was one important factor to the chancellor’s decision, it was not the sole factor; thus, there was no clear error and the chancellor did not abuse his discretion in awarding custody to the father.”¹⁸

Immigration - In *Garcia-Jaramillo v. INS*, the immigration board rejected a man’s marriage as a sham marriage after asking “an inordinate number of questions concerning [his] homosexuality” and found that because of his past homosexual inclinations, his opposite-sex marriage must be a sham. The immigration board never addressed the possibility that the man might be bisexual.¹⁹

SLIDE #34 Discuss Alabama Supreme Court Chief Justice Roy Moore’s concurring opinion in *Ex Parte H.H. In Re: D.H v. H.H.*²⁰ D.H., the mother of three children, agreed that the father of the children would have primary custody following their divorce and the relocation of the father to Alabama. Later D.H. petitioned to modify custody, the trial court denied the motion and the Court of Civil Appeals reversed the trial court’s order. The mother’s same-sex relationship was an issue at all stages of the case. This case went all the way to the Supreme Court of Alabama, where Justice Roy Moore wrote a concurring opinion “specifically to state that the homosexual conduct of a parent—conduct involving a sexual relationship between two persons of the same gender—creates a strong presumption of unfitness that alone is sufficient justification for denying that parent custody of his or her own children or prohibiting the adoption of the children of others.” Additional language from the opinion includes: “Homosexual conduct is, and has been, considered abhorrent, immoral, detestable, a crime against nature, and a violation of the laws of nature and of nature’s God upon which this Nation and our laws are predicated. Such conduct violates both the criminal and civil laws of this State and is destructive to a basic building block of society—the family. It is an inherent evil against which children must be protected.”

Encourage participants to think about the impact of having a judge who has already denied the request before them to write separately about their family and their ability to raise their children based on their sexual orientation alone.

18. *S.B. v. L.W.*, 793 So. 2d 656, 661 (Miss. Ct. App. 2001).

19. *Garcia-Jaramillo v. INS*, 604 F.2d 1236 (9th Cir. 1979).

20. *Ex Parte H.H. In Re: D.H v. H.H.*, 830 So.2d 21(2002), <http://caselaw.findlaw.com/al-supreme-court/1303306.html>

SLIDE #35

RECAP AND INTERSECTIONS OF GENDER AND SEXUAL ORIENTATION

Ask participants to explain each term. Ask for examples of sexual orientations you have covered. Ask how they correlate with each other. Explain that one's gender identity or gender expression does not determine one's sexual orientation and reiterate that these are distinct aspects of human identity. They intersect in the sense that a person of any gender identity and with any gender expression can have any sexual orientation. Give examples such as a transgender lesbian woman or a cisgender straight man whose gender expression may be perceived as feminine by mainstream social definitions. Remind participants once again at this point that one's anatomy does not define one's gender identity or one's sexual orientation. Reiterate that none of us know anyone's identity until and unless they tell us. Our perceptions and assumptions may be correct or incorrect and we should always respect each person's identity (including name, pronouns, etc.) according to what they tell us it is.

SLIDE #36-43

ETHICAL CONSIDERATIONS

Review the Model Rules of Judicial Conduct and the Model Rules of Professional Conduct that relate to bias and discrimination, if appropriate for the audience. You may want to skip this if you're using codes and rules that are specific to the jurisdiction. If a jurisdiction does not have codes that are as inclusive as the Model Code and Model Rules, you may want to review these instead and point out that the jurisdiction is falling behind national standards. However, even if they are not as explicit as the Model Code or Rules, clarify that all ethical guidelines that require impartiality—or refraining from conduct that prejudices the administration of justice—include within their meaning a prohibition of bias or prejudice.

Depending on the audience, it may be helpful to bring printed copies of relevant judicial canons, ethical codes for attorneys and rules for court personnel from the jurisdiction where the training is taking place. Read aloud relevant sections of codes, rules and/or canons to participants (again depending on audience). You may wish to add information about ethical rules of the particular jurisdiction to Slide #43.

Emphasize that judges have an ethical duty to ensure that everyone in their courtroom treats all court users with fairness, dignity, courtesy and respect and that court officers may not treat court users with bias, discrimination or disrespect. Stress that attorneys have an ethical responsibility to avoid manifesting bias or prejudice in the course of representing a client, including on the basis of sex or sexual orientation. Lambda Legal’s “Know Your Rights in Court” provides information on how to file a complaint against a judge, <http://www.lambdalegal.org/know-your-rights/in-court/complaint-against-judge>. Individuals can also call Lambda Legal’s Help Desk if they experience bias or discrimination in the courtroom, <http://www.lambdalegal.org/help>. This section of the website also has links to each state’s judicial canons and professional ethical codes for attorneys, <http://www.lambdalegal.org/know-your-rights/in-court-resources/in-court/incourts>.

TRAINER NOTES

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COURT SCENARIOS

Exercise and Discussion

(30 minutes total for full discussions within small groups and with the larger group as well)

SLIDE #44 It is most useful to provide scenarios that relate to the particular experience of the audience you are training. The scenarios in Appendix A can be used as is or modified to make them more specific and more engaging for the particular audience. Provide various scenarios to pairs, triads or small groups, depending on the size of the audience. Try to match scenarios to participants' roles in the courthouse if possible, although this won't always be practical, depending on size of the group. It can also be helpful to have participants think about a scenario from the perspective of different people involved in the scenario.

Ask for a volunteer from each group to report back on each of the scenarios.

Scenarios are included in Appendix A at the end of this document, one per page for easy printing.

Guide the conversation into a dialogue about best practices according to the participants' responses.

BEST PRACTICES

SLIDES #45-57 (10-15 minutes)

SLIDE #45 Explain that best practices in court or in legal offices require thinking about each step of the process and how it could impact LGBT people and people living with HIV.

SLIDE #46 Explain that explicit bias and disrespect must be responded to immediately.

SLIDES #47 & #48 Affirming gender means using the pronouns that the court user designates. Make sure not to address this in a public forum. There is nothing that prevents the use of pronouns that do not correspond with what is listed on someone's identity documents. It is modern judicial practice for courts to routinely use correct names and pronouns for transgender litigants.²¹ Explain ways to avoid using gendered language and dress codes.

SLIDE #49 Affirming name in use. Explain that it is best practice and a part of ensuring that court users are treated fairly and respectfully to refer to the names they are using (also called preferred names), even if these are not legal names. Explain that if a transgender person has had a legal name change, it must be used and respected. This does not always happen. Explain that not only is it disrespectful to address people by incorrect names and pronouns, it can also create an atmosphere that contributes to unlawful harassment or discrimination by others.

SLIDES #50 - #54 Review best practices information in the slides.²²

SLIDE #55 Discuss transgender individuals' right to access restrooms consistent with their gender identity. Discuss nondiscrimination laws in jurisdictions that require this such as Iowa, Colorado and Maine and any laws specific to the jurisdiction.²³ The trainer should briefly discuss the *Lusardi* case, an Equal Employment Opportunity Commission ruling that now requires employers to allow transgender employees to use the restrooms consistent with their gender identity.²⁴

SLIDE #56 Wrap up before questions by bringing participants back to why these best practices are important: Disrespect and bias impact access to the courts. When people do not have trust in the court to be able to fairly judge them because of who they are, everyone loses.

21. Here are some citations that can be used in training if desired: *Carman v. Colvin*, 2016 WL 4153613 (N.D. Iowa Aug. 4, 2016) (at *1, noting that the "claimant identifies as a person of transgender status. . . . [C]ourt respectfully honors this request and from this point forth will refer to claimant using only female pronouns.") (at FN 4, "All of these professionals, with the exception of social worker Ivy Clausen, used male pronouns in referring to claimant. The court has adjusted these references to reflect a female pronoun."); *United States v. Bradley E. Manning*, United States Army Court of Criminal Appeals, Army 20130739 (Mar. 4, 2015) (ordering that feminine or gender neutral pronouns must be used going forward in the case) http://www.chelseamanning.org/wp-content/uploads/2015/03/Order_030515.pdf; *Lonnie Clark Williams Jr. v. Paramo*, 775 F.3d 1182, at FN 1 (9th Cir. Jan. 5, 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) (Plaintiff was an incarcerated transgender woman. Court used female pronouns to refer to her in the order.); *Battista v. Clarke*, 645 F.3d 449 (1st Cir. 2011) (Plaintiff was a transgender woman civilly committed to a treatment center. Court used female pronouns to refer to her in the order.); *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011) (Plaintiff was a transgender woman who brought a Title VII employment discrimination claim against employer. Court used female pronouns throughout order.) There are many others that can be provided if assistance is needed for your particular jurisdiction.
22. For additional information related to the best practices on these slides see <http://www.lambdalegal.org/know-your-rights/in-court/faq> and <http://www.lambdalegal.org/protected-and-served/courts> (Key Recommendations section).
23. See, *Transgender Rights Toolkit: Equal Access to Public Restrooms*, http://www.lambdalegal.org/sites/default/files/2015_equal-access-to-public-restrooms-fs-v5.pdf
24. *Lusardi v. Dep't of the Army*, <https://www.eeoc.gov/decisions/0120133395.txt>



Q&A AND CLOSING

Questions and answers, optional terminology exercise and training feedback (see Appendix B and C).

SLIDE #57

Close with enough time to field any remaining questions.

ADDITIONAL RESOURCES FOR TRAINERS AND PARTICIPANTS:

The Report of the 2015 U.S. Transgender Survey. National Center for Transgender Equality, available at www.ustranssurvey.org/report

Safe Havens: Closing the Gap Between Recommended Practice and Reality for Transgender and Gender-Expansive Youth in Out-of-Home Care, Children's Rights, Lambda Legal and Center for the Study of Social Policy, available at www.lambdalegal.org/publications/safe-havens

Transgender Rights Toolkit: A Legal Guide for Trans People and Their Advocates, Lambda Legal, available at www.lambdalegal.org/publications/trans-toolkit

Tips for Lawyers Working with Transgender Clients or Coworkers, Transgender Law Center, available at transgenderlawcenter.org/resources/employment/tips-for-lawyers-working-with-transgender-clients-and-coworkers

Tips for Communicating with Transgender Clients in Prisoners' Rights Cases, Sylvia Rivera Law Project, available at srp.org/resources/tips-for-communicating-with-transgender-clients-in-prisoners-rights-cases/

Resources: Legal Issues and Decisions, InterACT, available at interactadvocates.org/resources/intersex-resource-topics/legal-issues-and-decisions/

APPENDIX A

Scenarios

Trainers should direct participants to form small groups in order to review and discuss the following courtroom scenarios. Provide each group with a scenario and let participants know they will report back to the larger group after the discussion. See page 25 for further instructions.

SCENARIO ONE

A judge who was appointed to the bench three months ago is sitting in the courtroom finishing a few things at the conclusion of a docket. While the judge is reading, she overhears several court officers discussing a colleague. At one point she hears an officer say, “He is gay. I know he is. These gays think they can do whatever they want now. I wish things could go back to the way they were, when we didn’t have to hear anything about gays. I don’t want to know about it.” The judge does not acknowledge these comments in any way. She continues her work. She believes that the court officers are testing her because they know she has a son who is gay. The judge believes the only other people in the courtroom are a court reporter and clerk. She doesn’t know if the others heard the comments.

What is the judge’s ethical responsibility in this circumstance?

What would be an appropriate response from the judge?

What are some of the reasons the judge should address this statement by the court officer?

What may be the impact if she doesn’t address this?

Take a moment to discuss what the other individuals present may feel in this situation.

SCENARIO TWO

A litigant is in court in front of a judge for the first time. The judge says, “Good morning, sir” to the litigant. The litigant corrects the judge, saying, “It’s ma’am, your honor.”

How should the judge handle this situation?

If there are attorneys representing the litigant and the opposing party, how should they handle this situation?

How could this have been avoided?

Who could have taken the actions to prevent this?

SCENARIO THREE

During jury selection, attorney for the plaintiff and attorney for the defendant question potential jurors in the presence of a judge. One attorney regularly asks jurors if they are married. As a follow-up question for those that answer “yes,” the attorney asks female jurors, “What does your husband do for work?” The attorney asks male jurors, “What does your wife do for work?”

How might all of these questions fail to get to the answers the attorney is looking for?

What may this type of questioning lead potential jurors to feel they must disclose to other potential jurors, the judge or court staff?

Why may that be problematic?

How may these questions make potential jurors feel?

What are potential ways to reframe these questions that get the answers needed?

SCENARIO FOUR

An attorney is representing clients at arraignment hearings in criminal court. As the attorney begins to discuss the case with the new client, the client says, “You should know that I am transgender.”

What questions should the attorney ask the client at this initial interview?

Since this may be a very short initial interview, what may the attorney need to follow up on at the next available opportunity to speak with the client?

What information may the attorney need to bring to the attention of the court and the prosecuting attorney?

How should the attorney bring this information to the court and prosecuting attorney?
What should the attorney consider before doing this?

SCENARIO FIVE

A judge begins a hearing on a juvenile delinquency matter and calls the parties on the case, including the parents of the child, to come to the front of the courtroom. With the child comes a woman that the judge recognizes as the child's mother from an earlier hearing. Another woman comes to the front with the mother and child that the judge does not recognize. The judge says, "I just want the child and the parents here at this time. You can take a seat for now. Thank you." The woman is also the child's mother.

How may the judge have handled this situation in the moment to have prevented the other mother from being excluded?

What practices could be put in place to prevent this situation from occurring at all?

Who in the courtroom could help implement these practices?

SCENARIO SIX

A transgender woman calls the court clerk's office to determine how she can obtain additional copies of the final order granting her name change. She says, "Hello, my name is Angela Smith. I'm trying to find out how I can get more copies of my name change order." The clerk that answers the phone asks for her previous name, because Ms. Smith doesn't have the case number available, and the court categorizes these cases by the legal name before the name change is granted. Ms. Smith's previous name was a traditionally male name. Once the clerk hears the previous name and pulls up the files, the clerk says, "Hold on, Mr. Smith. Let me find someone who can answer your question." Ms. Smith says, "Oh, I'm Ms. Angela Smith. Thank you." When the next person answers the phone they say, "How can I help you, sir?" Ms. Smith says, "This is Ms. Angela Smith. I'm female." In the background she can hear people laughing. The clerk lets her know how to obtain additional copies of her name change order. After the call, Ms. Smith is upset. She feels that the court employees were intentionally using the wrong pronouns and honorifics. She also feels that the court employees were talking to each other about her and this is why they were laughing.

How could the court employees have handled this differently?

What protocols could be put in place to prevent this from happening? Think about this starting from when the name change case initiated all the way through to this post-hearing request.

What if the employees weren't laughing at Ms. Smith at all? How does the appearance of bias impact court users?

APPENDIX B

Additional Activity

TERMINOLOGY EXERCISE (around 15 minutes with some discussion)

This can be used to add more interaction with the group. It can also be used as a type of pre-test to gauge the participants' knowledge of the subject area.

The trainer will explain that the training will use many terms regarding LGBT people that may be unfamiliar to the participants. The trainer will also explain that using correct and respectful language is an integral part of cultural competence. The trainer will hand out the LGBT Cultural Competency Terminology Activity Sheet and provide 5-7 minutes for participants to complete it, stressing that participants aren't expected to know all the terminology. The training is meant to cover the definitions. After 5-7 minutes, trainer should go through the answers to the activity sheet and then allow for any questions or discussion related to the activity.

TRAINER NOTES

TERMINOLOGY HANDOUT

Please take a few minutes to fill in the blanks to the best of your knowledge.

Do not feel pressured as we will go over this together as a group.

The purpose of this activity is to learn the definitions to the various terms that are most commonly used. Please note that some terms may change over time.

We greatly appreciate your time and participation.

Please use these terms to fill in the blanks below:

Sexual orientation Transgender man Gender-nonconforming
Transgender Gender expression Sex assigned at birth Gender identity
Gender queer Lesbian Cisgender Bisexual Transgender women
Transgender Queer/Questioning Gay

1. What does LGBTQ stand for? _____, _____, _____, _____, _____.
2. _____ means behaving in a way that does not match social stereotypes about female or male gender, usually through dress or physical appearance.
3. _____ refers to people who have a gender identity that is the same as the sex they were assigned at birth.
4. _____ refers to the way a person expresses gender through dress, grooming habits, mannerisms, activities, etc.
5. _____ refers to who a person is physically and emotionally attracted to.

6. _____ is a person's inner sense of being a man, a woman, both or neither.
7. _____ is an umbrella term encompassing many persons across the gender spectrum, but particularly those who feel their sex assigned at birth does not match their gender identity.
8. _____ is a term used to refer to the classification of an individual as female, male or intersex generally based only on external genitalia.
9. _____ is a term used by some people who may or may not identify as transgender, but who identify their gender as somewhere on the continuum beyond the binary male/female gender system.
10. _____ is a term used to describe individuals who were assigned the male sex at birth but who are female.
11. _____ is a term used to identify a person who was assigned the female sex at birth but who is male.

APPENDIX C

EVALUATION FORM FOR TRAINING PARTICIPANTS

Trainer should provide the evaluation form below to each participant after the training.

MOVING BEYOND BIAS

ENSURING ACCESS TO JUSTICE FOR LGBT PEOPLE

PLEASE GIVE US YOUR FEEDBACK!

1. As a result of attending this session, I now have a better understanding of the various terms listed below. Please circle the number that best represents your understanding of each term based on a scale of 1-10 (1 = does not understand term at all; 10 = fully understands.)

- a. Gender Identity

1 2 3 4 5 6 7 8 9 10

- b. Gender Expression

1 2 3 4 5 6 7 8 9 10

- c. Sexual Orientation

1 2 3 4 5 6 7 8 9 10

- d. On a scale of 1-10, I now have a better idea of how LGBT people, people living with HIV and gender-nonconforming people can or might have faced discrimination in the courts.

1 2 3 4 5 6 7 8 9 10

- e. This session contributed directly to understanding of certain professional responsibilities and ethical obligations. Please circle one of the following choices below.

- a. Strongly Agree
- b. Agree
- c. Indifferent
- d. Disagree

e. Strongly Disagree

2. This session will help promote effective court practices and procedures. Please circle one of the following choices below.
- a. Strongly Agree
 - b. Agree
 - c. Indifferent
 - d. Disagree
 - e. Strongly Disagree
3. This session will help promote fairness, integrity and impartiality in the court system by furthering the elimination of bias and prejudice. Please circle one of the following choices below.

- a. Strongly Agree
- b. Agree
- c. Indifferent
- d. Disagree
- e. Strongly Disagree

4. What other topical areas would you like our Continuing Judicial Education or CLEs to cover?

5. Are you leaving this session today with any other outstanding questions that did not get answered? If so, please write your question(s) below.

6. Please write any additional feedback, comments or suggestions on the presentation (including format, content, and facilitator).

Participants: Please return this form to the presenter at the end of the program. Presenters: Please send a copy of this evaluation to erice@lambdalegal.org or by mail to Ethan Rice, Fair Courts Project Attorney, Lambda Legal, 120 Wall Street, 19th Floor, New York, NY 10005.

