

USING LGBTQ+ INCLUSIVE LANGUAGE AND PRONOUNS

Benchcard and Best Practices for Judges

The perceived fairness of court proceedings matters. Research has shown that higher perceptions of procedural fairness lead to better acceptance of court decisions. Judges have an obligation to foster a judicial environment free of bias, prejudice, and harassment.¹ To preserve the integrity and impartiality of the judicial system through the prevention of bias, every judicial officer must participate in education on fairness and access, including gender and sexual orientation.²

What Does “LGBTQ+” Mean?

The term **LGBTQ+** refers to lesbian, gay, bisexual, transgender, and queer or questioning people. LGBTQ+ is a widely used and reasonably inclusive term that includes those of nonheterosexual sexual orientations and transgender or gender-fluid people. Other shorthand terms used with some frequency include “I” for intersex, “A” for asexual or ally, “2S” for two-spirit (in Native American culture) and possibly others.

Gender Variant/Neutral Pronouns

Some persons may have a pronoun choice other than **he/him/his/himself**, **she/her/hers/herself**, or **they/them/their/themself**. The pronoun list that follows is not an exhaustive list:

- **sie** (or **ze**, or **zie**)/**hir/hirs/hirself** (**heer**)
- **e/em/es/eself**
- **hi/hem/hes/himself**
- **na/nan/nas/naself**
- **per/per/pers/perself**
- **ze/zim/zee’s/zeeself**

A person’s pronouns may change, and some people may have pronouns that are fluid or used interchangeably depending on context (such as **she/they** or **he/they**). If a person asks you to use pronouns you’re unfamiliar with, ask the person to explain the correct usage, listen closely, take notes, and then address the person as requested. Practicing out loud in front of a mirror can be helpful if you are struggling with using the correct pronoun.

Honorifics: in addition to **Mr./ Ms./ Miss/ Mrs.**, there are gender-neutral choices such as **M.** or **Mx.** (pronounced “Miks,” “Mux,” or “M.X.”).

¹ Cal. Code of Ethics, canon 3B(5) & (6).

² Cal. Rules of Court, rule 10.469(e).

“Transgender” and Pronoun Use

Transgender is a broad term that includes people who do not identify with their assigned birth sex and may not conform to traditional gender expression. The term **trans***—with or without the asterisk—is commonly used shorthand. There are others who may choose another term such as **nonbinary**, **genderqueer**, or **queer**. Judges and court personnel should keep in mind that being transgender, regardless of a person’s gender expression, is entirely unrelated to sexual orientation. Transgender individuals, like others, may be attracted to partners of any gender.

A key point: There is no precise measure of when a person’s change of gender is complete. **Gender transition**, the process through which a transgender or nonbinary person takes steps to live authentically in their true gender identity, is a personal process that looks different for every transgender and nonbinary person.

Gender is distinct from sex (anatomy). Surgery of any kind is *not* a prerequisite to being transgender, but for some it is a necessity. A transgender person may have some surgery, many surgeries, or no surgeries. **Gender-affirming surgery**, sometimes referred to as **bottom surgery** or **gender-confirming surgery**, was once called **sex change surgery**, a term now disfavored. It is generally considered extremely rude to inquire into whether a person has had gender-affirming care, including surgery.

If you are unsure of which pronoun to use to refer to a person, you may ask—it is not considered rude, indeed, asking is seen by most as a sign of respect.

For additional resources, please see the American Bar Association’s Commission on Sexual Orientation and Gender Identity, www.americanbar.org/groups/diversity/sexual_orientation/resources/.

Inclusive Language in Court

Inclusive language in the courtroom conveys the message that all people, regardless of orientation, gender identity, or gender expression, will be treated with dignity and respect. Gender-inclusive language helps in avoiding misgendering people in the courtroom. When judges and lawyers share/volunteer their own pronouns, it reduces the perception that pronouns are only relevant for gender-diverse persons. Similarly, when gender-neutral terms are used to refer to parties, parents, spouses, and partners, it can help to reduce bias or the perception of bias. Consider asking the following questions:

- How would you like to be addressed? (Or, if the party is represented, ask the party's attorney before calling the case.)
- What name do you usually go by?
- Is your birth/legal name different?
- Which name do you want me to use with you?
- When you speak about your family, what words do you use to describe your relationship?

In addition:

- Judge's pronouns can be included on courthouse/room signage.
- Judges and attorneys can volunteer their pronouns during appearances and introductions.
- Gender-identifying questions and information can be omitted when the information is not relevant.
- Do not ask "What are your preferred pronouns?" as that implies gender identity is a choice. Instead, ask "What are your pronouns?"
- Use the person's name or gender-neutral words such as *folks*, *guests*, *jurors*, *counsel*.
- Avoid terms and phrases like *ladies and gentlemen of the jury*, *sir* and *ma'am*.
- Avoid making heteronormative assumptions when referring to families. Use inclusive terms like *spouse*, *partner*, *parent*, or *child*.

Important Terms to Know

AFAB/AMAB: Assigned female at birth/assigned male at birth, acronyms indicating that the individual's assigned sex at birth was in error.

Deadname: A name that a trans+/nonbinary person no longer uses. Deadnaming is considered offensive and hurtful.

Gender expression: The way a person demonstrates their gender through outward manifestations such as clothing, mannerisms, style, etc.; this may not match gender identity.

Gender identity: An individual's perception of their own gender.

Gender nonbinary: Identifying as neither male nor female.

Gender nonconforming: Not identifying with a recognized gender.

Intersex: A term used to describe a person with one or more innate sex characteristics—including genitals, internal reproductive organs, and chromosomes—that fall outside of traditional conceptions of male or female bodies.

MBT/WBT: Man born trans/woman born trans.

Sexual orientation: A person's enduring physical, romantic, and/or emotional attraction to another person. Gender identity and sexual orientation are not the same.

Terms to Avoid

FTM (female to male), MTF (male to female):

Acronyms indicating that a person has transitioned from one sex to the other.

Transsexual: A person who has transitioned medically from one sex or gender to another (disfavored due to the "change" implication).

Do not use **hermaphrodite**, **she-male**, **he-she**, **tranny**, **transvestite**, or **gender reassignment surgery**.

What to Do If You Inadvertently Use Offensive Language

Because language is always changing, terms that are considered acceptable now, may become outdated. Within the LGBTQ+ community there has been a reclamation of some words historically used pejoratively against LGBTQ+ persons; e.g., some use *queer* and *dyke* as positive, respectful terms. Although LGBTQ+ people may use these terms, they are often seen as derogatory when used by others. **Exercise extreme caution with respect to such words.**

If you deadname or misgender someone or if you are told that a term you are using is incorrect or offensive, apologize. Do not try to explain why you made the mistake or apologize profusely. This is uncomfortable and draws extra, unwanted attention.