



T9 Mastered

Gender Identity: Investigation Issues

Handout Materials

October 18, 2017
ACHRO/EEO 2017 Fall Institute
Garden Grove, California

T9 Mastered
770 L Street, Suite 950
Sacramento, CA 95814
916.245.2577
info@t9mastered.com
www. t9mastered.com

All materials are copyright 2017 by T9 Mastered Inc., unless otherwise specified. All rights reserved.

T9 Mastered Inc. provides the materials in this manual for informational purposes only and not for the purpose of providing legal advice.



Presenter Biographies

Deborah Maddux is a Shareholder at Van Dermyden Maddux Law Corporation. She is licensed to practice law in the State of California. She is also a certified Senior Professional in Human Resources, as well as a certified EEOC investigator, and is trained in conducting Trauma Informed Forensic interviews. She is experienced in conducting Title IX investigations for federally funded education programs or activities, particularly in the University setting. She provides hearing officer services, and is a panel member for National Arbitration and Mediation (NAM).



Prior to creating her law firm, Deborah served as Counsel to the University of California, Davis, where she was routinely called upon for counsel in a wide variety of situations. In this role, she conducted, oversaw and managed many investigations and advised and collaborated with leadership regarding the appropriate follow-up to investigative findings and conclusions. Deborah worked with campus units related to all aspects of employment management and student discipline issues. This included the proper application of and compliance with state and federal laws, grievance and arbitration administration, personnel policy development and interpretation, and complaint resolution processes. She provided direction regarding the proper administration of personnel actions, evaluations, hiring decisions, corrective action, and progressive discipline, up to and including dismissals. She also negotiated and drafted separation agreements. At UC Davis, Deborah served as an active member and collaborated on a variety of campus team projects and standing committees, including the Ethics Advisory Committee, the Sexual Harassment and Discrimination Case Management Team, the Faculty Accommodation and Disability Assessment Team, and the Student Crisis Response Team.

Deborah's current practice focuses on investigations into claims of misconduct, including claims of harassment, discrimination, retaliation, and of improper governmental activities. She is experienced in testifying regarding completed investigations. Deborah has also been trained in mediation through Pepperdine Law School's prestigious Straus Institute for Dispute Resolution.

Deborah is also an experienced and effective trainer. She has provided training to hundreds of campus investigators regarding how to conduct effective investigations that focus on ensuring a process that is fair and thorough. Deborah provides training on a variety of other issues, including sexual harassment prevention, discrimination prevention, and other legal compliance topics. Her training is consistently rated excellent, and focuses on best practices and practical approaches and solutions. Deborah has written online training courses in the areas of sexual harassment prevention and best employment practices.

Nora Rohman joined Public Interest Investigations, Inc., (PII) as an investigator in 2013. Nora's caseload has included investigations of sexual assault complaints on college campuses and workplace allegations involving harassment and discrimination. Nora has also conducted mitigation investigations on behalf of death row inmates who are filing appeals.

Nora has extensive experience with education and activism in the LGBTQ community, and she has particular expertise in sexual assault prevention education. Nora completed an internship at Peace Over Violence in Los Angeles that focused on interpersonal violence prevention education, and trained as a Peer Counselor at Concordia University's 2110 Center for Gender Advocacy, including violence prevention and sex education.

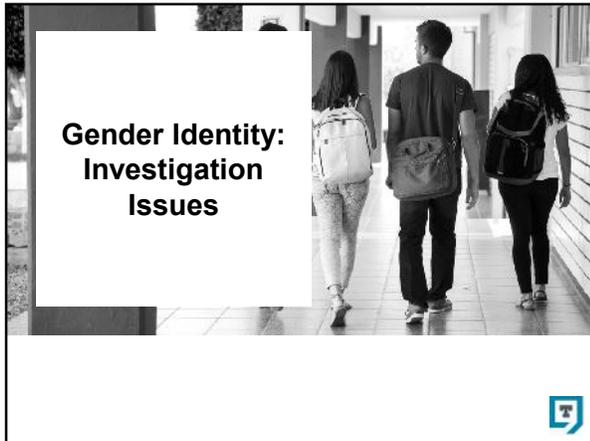
Nora earned her bachelor's degree in Interdisciplinary Gender Studies from Concordia University in Montreal. Following this, she pursued a master's degree in Gender Studies at New York University.



Gender Identity: Investigation Issues

PowerPoint Notes

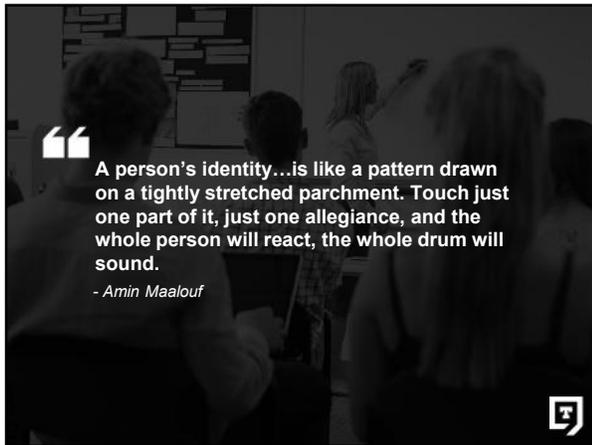




Learning Objectives

- Introduce concepts and terms about gender identity
- Explore dimensions of gender identity and the gender spectrum with common terminology
- Discuss implications for report writing
- Discuss interview techniques and tools to make the interview as smooth, clear and comfortable as possible





Common Terms

- Common Terms
 - Sex
 - Gender Identity
 - Gender Dysphoria
 - Trans/Transgender/Transsexual
 - Gender Non-Conforming (GNC)/Non-Binary
 - Intersex
- Offensive Terms not to use

The Report – Using Pronouns

	Subject	Object	Possessive Adjective	Possessive Pronoun	Reflexive
Female	She	Her	Her	Hers	Herself
Male	He	Him	His	His	Himself
Gender Neutral	Ze	Hir	Hir	Hirs	Hirself
	They	Them	Their	Theirs	Themselves

When in doubt, use names.

The Report -- Using Pronouns

Oh no, someone left their cell phone.

Dang, I wonder if they'll miss it?

Of course they will. It's their phone.

Not what I meant. I was wondering if they'll miss it in time to come back for it before the shop closes.

I hope so, for their sake.

YOU ALREADY KNOW HOW TO USE SINGULAR THEY.

When a nonbinary person asks you to use "they" as their pronoun, you can handle it.



Gender Transition

- Medical Transition
 - No singular "transgender" surgery
 - Can include a variety of treatments and interventions, or none.
- Social Transition
 - Coming out to family, friends, and co-workers
 - New name and/or pronouns
- Institutional Transition
 - Changing name and/or sex on ID documents
 - Notifying H.R.

Often, social, institutional, and medical transitions are intertwined, and people simply refer to "transitioning"



The Interview

- Introduce yourself with your pronouns
 - Make it a part of your standard introduction.
 - "What pronouns do you use?"
- What to ask
 - Is it **relevant** to the issues under review?
- How to ask
 - Acknowledge when you do not know.
 - "What does that mean for *you*?"



The Interview

- Mistakes can happen
 - Acknowledge, Apologize, Restate, Move on.
- Be open and listen
 - “Can you tell me what that means for you?”
 - “That is a new term for me, I will learn more.”
- Funnel Method
 - “Are you referring to a part of your body?”
 - “Are you referring to a part of your body below your waist?”
- Dysphoria, Trauma, and other Impacts



Statements for Your Toolkit

- “How do you identify?” / “What pronouns do you use?”
- “If you are wondering why I am asking a certain question, please ask me. I want to be as transparent as possible throughout this process.”
- “I might make mistakes, please let me know if I do. It is important to me that you feel fully understood.”
- “That is a new term for me. I can look into some resources and take the time to understand outside of our time here together. It’s important that I understand what it means for you personally. Can you tell me more about that?”



Statements for your Tool Kit

“Sometimes in these investigations we need to discuss very personal and private issues and use specific sexual and anatomical terms. Campus policies use such terms, and I may need to use them at least once so the university can understand what took place.”

“Are there different terms that you use for your body? I want to use the language that you are comfortable with for the majority of this interview. I may need to ask you to clarify, until I am sure that we are on the same page.”





List of Terms: Gender Identity

Agender: A person who does not consider themselves to have a gender.

Ally: Someone who advocates for and supports members of a community other than their own. Ideally, someone who listens openly. An ally is receptive to learning about experiences that are different from their own.

Asexual: A person who does not experience sexual attraction.

Bisexuality: (Also “Bi”) A person who has romantic attraction, sexual attraction, or sexual behavior toward both men and women, or romantic or sexual attraction to people of any sex or gender identity.

Biphobia: The irrational fear and intolerance of people who are bisexual.

BDSM: Engaging in consensual relationships, sexual, romantic, etc. that contain a component of domination, submission, or otherwise non-normative sexual acts, as defined by the participants in that relationship.

Bottom Surgery: Gender Confirming Surgery (GCS) below the waist, which sometimes involves genitalia.

Chosen Family / Family of Choice: People that an individual considers significant in their life. It may include none, all, or some members of their family of origin. In addition, it may include individuals such as significant others, domestic partners, friends, and coworkers. This term came about due to the rejection that many LGBTQ people face from their families of origin, or birth families.

Cisgender: A person who *conforms* to gender/sex based expectations of society. A person who is not trans or non-binary, who does not endeavor to transition or question their gender identity. If assigned female at birth, a cisgender person is someone who continues to identify as female, and does not question their sex or gender, or deviate from gender norms. “Cis” is a prefix that means ‘stable,’ which is different from the prefix “Trans,” which implies movement.

Coming out: To recognize one's sexual orientation, gender identity, or gender expression, and to share it with oneself and with others.

Crossdresser: – Someone who dresses in clothing generally identified with the opposite gender/sex. Often, crossdressers are heterosexual males who derive pleasure from dressing in “women’s” clothing. Someone who identifies as a cross-dresser may have no desire to transition, and can be completely content with the sex they were

assigned at birth. This term has generally replaced "transvestite," which is now considered by some to be outdated and offensive.

Domestic Partner: One who lives with their beloved and/or is at least emotionally and financially connected in a supportive manner with another. Another word for spouse, lover, significant other, etc.

Drag: The act of dressing in gendered clothing and adopting gendered behaviors as part of a performance, most often clothing and behaviors typically not associated with your gender identity. *Drag Queens* perform femininity theatrically. *Drag Kings* perform masculinity theatrically. Drag may be performed as a political comment on gender, as parody, or simply as entertainment. Drag performance does not indicate sexual orientation or gender identity.

FTM or F2M: Abbreviation for "female-to-male." (See: transgender man.)

Gender: A socially constructed system of classification that ascribes qualities of masculinity and femininity to people. Gender characteristics can change over time and are different between cultures. [For example, "boys only like to play with trucks and not dolls."] (See "*Gender Identity*" and "*Gender Expression*" for more on gender.)

Gender Binary: The idea or belief that there are only two genders, men and women. (See "Identity sphere.")

Gender Conformity: When your gender identity, gender expression and sex "match" according to social norms. (See "*Gender Identity*" and "*Gender Expression*" and "*Gender Roles*" for more on gender.)

Gender Confirmation Surgery (GCS) / Gender Affirming Surgery – A term used by some medical professionals to refer to a group of surgical options that alter a person's sex and/or gendered characteristics. In most states, one or multiple surgeries are required to achieve legal recognition of gender variance and transition. Some trans people undergo multiple surgical interventions to affirm their gender, some do not. [Note: GCS was previously referred to as "Sexual Reassignment Surgery (SRS)," which is now commonly considered to be a problematic and outdated term.]

Gender Diverse/Gender Divergent: A person who does not conform to gender-based expectations of society (e.g. transgender, transsexual, intersex, genderqueer, cross-dresser, etc.) Preferable to "gender variant" because it does not imply a standard normativity, or supposed "neutral" starting point.

Gender Dysphoria: The formal diagnosis used by psychologists and physicians to describe people who experience significant dysphoria (discontent, discomfort) with the sex they were assigned at birth, and the gendered associations with their assigned sex.

In the past iterations of the DSM (the American Psychiatric Association's Diagnostics and Statistics Manual) this was referred to as "Gender Identity Disorder."

Gender Expression: An individual's external characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that are perceived as masculine or feminine. Gender expression does not necessarily correlate with a person's sex, gender identity, or orientation.

Gender Fluid: A person whose gender identification and presentation shifts, whether within or outside of societal, gender-based expectations.

Gender Identity: A person's internal, deeply-felt sense of being male, female, neither, something other, or in-between. Some people have complex identities that may even be fluid and change over time.

Gender-Neutral/Gender-Inclusive: Inclusive language to describe *relationships* (i.e., using "spouse" and "partner" instead of "husband/boyfriend" or "wife/girlfriend"), *spaces* (gender-neutral/inclusive restrooms for use by all), *pronouns* ("they" and "ze" are gender-neutral/inclusive pronouns), and *objects*.

Gender non-conforming, (GNC): A person who has gender characteristics and/or behaviors that do not conform to traditional or societal expectations.

Genderqueer: A person whose gender identity is neither man nor woman, is between or beyond genders, or is some combination of genders. This identity is usually related to, or in reaction to, the social construction of gender, gender stereotypes, and the gender binary system. Some genderqueer people identify as trans or transgender, while others do not.

Gender Roles: Societal norms regarding how males and females should behave, expecting people to have personality characteristics and/or act a certain way based on their biological sex. (For example, "Women should care for children, and men should go to work" are examples of normative gender roles.)

Heterosexuality/Heterosexual (Straight): Sexual, emotional, and/or romantic attraction to a sex other than your own. Commonly thought of as "attraction to the opposite sex." Usually a technical term, has some clinical connotations. "Straight" can be interchangeable, and is more commonly used.

Heterosexual Privilege: Benefits derived automatically by being (or being perceived as) heterosexual that are denied to gays, lesbians, bisexuals, queers, and all other non-heterosexual sexual orientations.

Heteronormative/Heteronormativity: The attitude or belief (can be conscious or unconscious) that heterosexuality is the only "normal" and "natural" expression of

sexuality. (For example, “Women should marry men, not women” is a heteronormative belief.)

Homophobia: The irrational fear and intolerance of people who are homosexual. Homophobia also encapsulates the assumption or belief that heterosexuality is superior. (This can also be applied to oneself, or of homosexual feelings within one's self. See “Internalized Oppression.”)

Homosexuality/Homosexual (Gay) - A person primarily emotionally, physically, and/or sexually attracted to members of the same sex. Usually a technical term, has some clinical and pathological connotations. “Gay” can be interchangeable, and is more commonly and colloquially used.

Identity Sphere – (as opposed to gender binary) The idea that gender identities and expressions do not fit on a linear scale, but rather on a sphere that allows room for all expression without weighting any one expression as better than another. This is a less common term, and more frequently used in an academic context.

In the Closet – Refers to a homosexual, bisexual, trans-person, or intersex person who will not or cannot disclose their sex, sexuality, sexual orientation or gender identity to their friends, family, co-workers, or society. There are varying degrees of being “in the closet.” For example, a person can be out in their social life, but in the closet at work, or with their family. Also known as on the “Downlow” or ‘D/L.’

Institutional Oppression – Arrangements of a society used to benefit one group at the expense of another through language, media, education, religion, economics, etc.

Internalized Oppression – The process by which a member of an oppressed group comes to accept and live out the inaccurate stereotypes applied to the oppressed group. (For example, “Internalized homophobia.”)

Intersex - A term describing a person whose sex a doctor has a difficult time categorizing as either male or female. A person whose combination of chromosomes, gonads, hormones, internal sex organs, and/or genitals differs from one of the two expected patterns. An umbrella term for a variety of physical conditions resulting in a reproductive, hormonal, sexual anatomy, and/or chromosomal makeup that does not fit the typical definitions of female or male. Intersex conditions can occur as frequently as 1 in 100 people.

Lesbian – Term used to describe female-identified people attracted romantically, erotically, and/or emotionally to other female-identified people.

LGBTQI – A common abbreviation for lesbian, gay, bisexual, transgender, queer and intersexed community.

MTF / M2F – Abbreviation for male-to-female transgender or transsexual woman. (See also, Transwoman.)

Non Binary – A term for someone who has any gender that does not fall neatly into the category of male or female. A person who is outside of the gender binary. Some Non Binary people also identify as transgender, while some do not. (See also: Genderqueer, gender binary, Gender Non-Conforming)

Outing – Disclosure of the sexual orientation, gender identity, or intersex status of oneself or another. Outing or “being outed” can be consensual or non-consensual. (For example, “Hi, I’m a trans man” is an example of consensual outing, while “Did you hear that James is transgender?” is an example of non-consensual “outing.”)

Packing (wearing a ‘packer’) – Wearing an item underneath clothing below the waist. Reasons for packing may include: the validation or confirmation of one’s gender identity; and/or sexual interaction. A packer might include a silicone phallus, socks, or a strap-on, among other things.

Pansexual – A person who is sexually attracted to all or many gender expressions.

Pangendered – A person whose gender identity is comprised of all or many gender expressions.

Partner - Another word for spouse, lover, significant other, etc. This term is gender neutral, in contrast to terms like boyfriend/girlfriend, wife/husband, which are gender specific.

Passing – Describes a person's ability to be accepted as their preferred gender/sex or race/ethnic identity, or to be seen as heterosexual or cisgender. Sometimes people ‘pass’ in ways they are uncomfortable with, or in ways that do not align with their self-identity.

Polyamory – Refers to having honest, usually non-possessive, loving and/or sexual relationships with multiple partners. Can include many different formulations of relationships.

Queer – **1.** An umbrella term that embraces a variety of sexual preferences, orientations, and gender identities. **2.** A word that was formerly used only as a slur, but that has been semantically overturned by members of the slandered group. Queers have reclaimed the term, and some now use it as a term of defiant pride. “Queer” is an example of a word undergoing this process. For decades “queer” was used solely as a derogatory adjective for gays and lesbians, but in the 1980s the term began to be used by gay and lesbian activists as a term of self-identification. Eventually, it came to be used as an umbrella term that can include gay men, lesbians, bisexuals, and transgendered people. Nevertheless, a sizable percentage of people to whom this term

might apply still hold “queer” to be a hateful insult, and its use by heterosexuals is often considered offensive. **3.** A term which describes a set of political beliefs that are anti-assimilationist and resistant to heteronormativity.

They/Them - Alternate pronouns that are gender neutral and used by some gender non-conforming people.

Top Surgery – Gender affirming surgery above the waist, can include breast augmentation, bilateral mastectomy, or chest reconstruction. (See “GCS surgery.”)

Trans - An abbreviation that is used to refer to a gender non-conforming and/or transgender person. This term is often used as an umbrella term, to refer to the gender non-conforming community as a whole, as in “the trans community,” or “trans people.”

Transgender: A term used to describe people whose gender identity and/or gender expression is different from the sex they were assigned at birth. (The trans community, trans people, transgender individual, trans folk, etc.)

Transition – This term is primarily used to refer to the process a trans or gender non-conforming person undergoes when changing their bodily appearance either to be more congruent with the gender/sex they feel themselves to be. It is a process that enables a person to be in harmony with their preferred gender expression. It can include medical, social, and institutional changes.

Transsexual: A person who identifies psychologically as a gender/sex other than the one to which they were assigned at birth. Transsexual people sometimes wish to transform their bodies hormonally and/or surgically to match their inner sense of their gender/sex. Some view this term as pathologizing, and there is a general cultural shift happening in North America, shifting to using “Transgender.”

Transphobia – The irrational fear of those who are gender non-conforming and/or the inability to deal with gender ambiguity.

Trans man / Trans guy— A man who describes himself in a way that affirms his history and experience as a trans person. (See FTM/F2M)

Transmasculine – A term used to describe transgender people who were assigned female at birth, but identify with masculinity to a greater extent than with femininity. This includes: Trans men. Butch people, Multigender people whose strongest gender expression is a masculine one.

Trans woman / Trans girl - A woman who describes herself in a way that affirms her history and experience as a trans person. (See MTF/M2F)

Transfeminine - A term used to describe transgender people who were assigned male at birth, but identify with femininity to a greater extent than with masculinity. This can

include: Trans women, femme people, and multiple genders of people whose strongest gender expression is a feminine one.

Two-Spirit – A term exclusively used by Native and Indigenous persons who have attributes of two genders, and sometimes have distinct gender and social roles in their tribes.

Sex: A term used to denote whether an individual is male or female, as determined by a physician or other medical professional at the time of birth. This designation is often made solely based upon an examination of an infant’s genitals. This can also be referred to as a person’s “assigned sex” or “sex at birth.” It is a medical term designating a certain combination of gonads, chromosomes, external gender organs, secondary sex characteristics and hormonal balances. This category does not recognize the existence of intersex bodies and individuals.

Sexuality – A person’s exploration of sexual acts, sexual orientation, sexual pleasure, and desire.

Sexual orientation: A person’s emotional and sexual attraction to other people based on the gender of the other person. Examples include lesbian, gay, heterosexual, bisexual, queer.

Stealth – This term refers to when a person chooses to be private about their gender history. (Also referred to as ‘going stealth’ or ‘living in stealth mode’.)

Ze / Hir – Alternate pronouns that are gender neutral and preferred by some gender non-conforming or genderqueer persons. Pronounced /zee/ and /here/, they replace “he”/”she” and “his”/”hers” respectively.

Sources:

Merriam-Webster Dictionary - <https://www.merriam-webster.com/dictionary>

National Center for Trans Equality <http://www.transequality.org/issues/resources>

LGBT Resource Center at UC Riverside - Eli R. Green (eli@trans-academics.org) and Eric N. Peterson 2003-2004

UC Berkley Gender Equity Resource Center - LGBT@uclink.berkeley.edu

Sylvia Rivera Law Project - <http://srlp.org>

What is Asexuality? <http://www.whatisasexuality.com/intro/>

Bisexual Resource Center <https://biresource.org/resources/youth/what-is-bisexuality/>

Copyright 2017 by T9 Mastered Inc. All rights reserved.

Information Resource List: Gender Identity

Videos and Links

Gender Spectrum – Understanding Gender

www.genderspectrum.com

The Trevor Project – Trans* and Gender Identity

<http://www.thetrevorproject.org/pages/trans-gender-identity>

Sylvia Rivera Law Project

<http://srlp.org>

Trans 101 – Sylvia Rivera Law Project

<https://srlp.org/resources/trans-101/>

Rutgers Center for Social Justice and LGBT Communities

<http://www.transequality.org/issues/resources>

National Center for Trans Equality

Books

Julia Serrano. 2016. **Whipping Girl: A Transsexual Woman on Sexism and the Scapegoating of Femininity – Second Edition.** Seal Press

Ed. Laura Erickson-Schroth. 2014. **Trans Bodies, Trans Selves: A Resource for the Transgender Community 1st Edition.** Oxford University Press.

Hillman, Thea. 2008. **Intersex: For Lack of a Better Word.** Manic D Press.

Susan Stryker, Stephen Whittle. 2006. **The Transgender Studies Reader.** Taylor & Francis.

Deborah Carlin, Jennifer DiGrazia. 2004. **Queer Cultures.** Pearson/Prentice Hall.

Joan Nestle, Clare Howell, Riki Anne Wilchins. 2002. **GenderQueer: Voices from Beyond the Sexual Binary.** Alyson Books.

Kath Weston. 1991. **Families We Choose: Lesbians, Gays, Kinship.** Columbia University Press.

Articles

Blackless, Melanie, Anthony Charuvastra, Amanda Derryck, Anne Fausto-Sterling, Karl Lauzanne, and Ellen Lee. 2000. **How sexually dimorphic are we? Review and synthesis.** American Journal of Human Biology 12:151-166.

Sylvia Rivera Law Project. Marksamer, Jody and Vade, Dylan. 2015. **Trans 101.**

Grant, Jaime M., Ph.D., Mottet, Lisa A., J.D., Tanis, Justin, D.Min., Harrison, Jack, Herman, Jody L. Ph.D., Keisling, Mara. 2001. **Injustice at Every Turn: A Report of the National Transgender Discrimination Survey. (Pgs. 50 – 72)** National Gay and Lesbian Taskforce.

Lambda Legal. 2015. **Transgender Rights Toolkit: A legal guide for trans people and their advocates.**

For more resources or questions, please e-mail the presenters at info@t9mastered.com.