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May 22, 2006

CHANCELLOR MARYE ANNE FOX  
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The Chancellor's Advisory Committee on Gender Identity and Sexual Orientation Issues (CAC GISOI) is pleased to submit the enclosed CAC GISOI Annual Report for your review. The report highlights activities, accomplishments and recommendations by CAC GISOI for FY04-FY06. We hope you will find the report interesting and of value to the Chancellor's office and the UCSD campus.

On June 8, 2006, CAC GISOI members will be discussing this report with you. If you have any questions prior to our meeting, please contact either Co-Chair and we will be happy to discuss the contents with you.

Respectfully submitted,

Francesco Carusi  
CACGISOI Co-Chair

James Forcier  
CACGISOI Co-Chair

cc: Jorge Huerta  
Clare Kristofco,  
Irma Martinez  
CACGISOI Committee Members

Chancellor's Advisory Committee on  
Gender Identity and Sexual Orientation Issues (GISOI)

EXECUTIVE REPORT 2004-2006

Presented by:  
Francesco Carusi & James Forcier, Co-Chairs

Submitted May 23, 2006

## Introduction

CAC GISOI serves the Chancellor's office by gathering information about LGBT issues, informing the UCSD community and public through sponsoring/co-sponsoring events and advising the Chancellor with written recommendations. CAC GISOI members participate in small work-groups on specific topics, such as LGBT housing and medical issues within UCSD and meet monthly as a larger committee. In the coming year, CAC GISOI will be meeting quarterly.

CAC GISOI did not submit an executive report for FY0405, during the Chancellor transition. The following CAC GISOI Executive Report therefore highlights committee activity during the past two years. The report breaks into three sections with four addendum items:

1. Highlights of CAC GISOI activities
2. A briefing from the CAC GISOI Housing Working Group
3. CAC GISOI Recommendations

### 1. *CAC GISOI Activities*

#### January 2004

- President Dynes approved changes to various nondiscrimination policies clarifying that the University prohibits discrimination based on gender identity and pregnancy, consistent with the Fair Employment and Housing Act. CAC GISOI worked closely with UCOP and Academic Personnel to get this change made.
- CAC GISOI recruited David Wu, President, of the UCSD School of Medicine Lesbian, Gay, Bisexual and Transgendered Allies in Medicine (LGBTAM) to become a member of CAC. David and other LGBTAM members worked closely with the Medical Working Group.

#### February 2004

- CAC GISOI jointly sponsored the Annual University of California Lesbian Gay Bisexual Transgender Intersex Association (UCLGBTIA) Conference held at UCSD February 20 - 22. "Through the Looking Glass" 15<sup>th</sup> Annual UCLGBTIA Conference & General Assembly

##### 627 participants

82%	Undergraduate Students	1%	Faculty
8%	Staff	1%	Alumni
5%	Graduate Students	1%	Declined to state
2%	Community		

#### March 2004

- CAC GISOI and LGBTAM co-sponsored a public lecture entitled "Physicians Attitudes Towards Homosexuality and HIV" presented by Dr. Davey Smith. (See Addendum 1)

#### April 2004

- CAC GISOI contacted Mark Cunningham, Director of Housing and Dining Services to suggest changes to the UCSD Undergraduate Residential Housing Personal History Form. The suggestions CAC GISOI submitted arose from feedback given during the undergraduate focus group and from individual complaints about unsatisfactory roommate matching. (See *Addendum 2*)

#### May 2004

- CAC GISOI drafted and submitted new CAC guidelines.

#### October 2004

- 3<sup>rd</sup> Annual Enhancing Diversity in Healthcare: From Strategies to Actions, Oct. 1-2, 2004. CAC member David Wu sat on a panel. Christopher Harris, MD from GLMA was a speaker.

#### November 2004

- CAC GISOI sent representatives to the Chancellor Fox "Meet & Greet" on November 22, 2004.

#### December 2004

- Effective Dec. 14, 2004, UCOP revised the system wide Policy on Sexual Harassment. Revised policy specifically mentions (for the first time) that harassment based on gender, sex stereotyping, or sexual orientation is also prohibited. OSHPP revised UCSD campus Procedures for Sexual Harassment Complaint Resolution on May 5, 2005.

#### January 2005

- CAC GISOI participated in the larger "Get Acquainted" event with Chancellor Fox.
- CAC GISOI participated in the Stop the Hate Conference - January 21-23, 2005.
- Discussion with Chancellor regarding LGBT minor or major, supported by Acting VCAA Dave Miller.

#### May 2005

- CAC GISOI sent representatives to "State of Panic: Sex Panics and their Dispossessed", May 24, 2005, Papadopoulos lecture series presented by renowned scholar Gayle Rubin.

#### June 2005

- June 14, 2005 when Chancellor Fox and other representatives from the university met with members of San Diego's LGBT community at The Center in Hillcrest. CAC GISOI sent representatives.
- CAC GISOI discussed the National Association of College and University Attorneys (NACUA) paper dated June 2, 2005 on gender identity issues for transitioning employees. CAC members did not attend the conference, but found the information useful. (See *Addendum 3*)

#### January 2006

- Transgender Students in Residence Life and Housing - Procedures and Protocols adopted January 27, 2006. (See *Addendum 4*)

### March 2006

- CAC GISOI submitted the Focus Groups Report to the Chancellor with a list of recommendations.

### April 2006

- Co-Chair Francesco Carusi attends first Diversity Council Meeting on April 18, 2006. (Co-Chair will be active voting member of Council)
- CAC GISOI, the UCSD School of Medicine, and the UCSD LGBT Resource Center co-sponsored the program LGBT Health Issues throughout the Life Cycle. This was the first UCSD one day program planned by a committee whose members represent the LGBT campus as well as the broader LGBT communities in San Diego. The keynote speaker was Dr. Ritch Savin-Williams, author of *The New Gay Teenager* and professor and chair of Human Development, Cornell University, New York. The program:
  - Targeted healthcare providers, healthcare administrators, medical educators, health and allied health professions students, and LGBT community and business leaders.
  - Focused on increasing participants understanding of healthcare issues that affect LGBT people, especially the disparities experienced by LGBT individuals within healthcare delivery systems.
  - Responded to the needs and strategies identified in 2003 at the third UCSD Diversity Symposium where the LGBT community was present for the first time.
  - Explored elements popular in previous years remained, including presentations from experts in LGBT diversity, research, and community health, and LGBT student representatives speaking about their healthcare and educational experiences.
- CAC GISOI one-time allocated funds for the following:
  - a. \$435 - The Papadopoulos Lecture in LGBT Studies, presented by Prof. Kenji Yoshino "Covering: **The Hidden Assault on Our Civil Rights**" on May 8, 2006.
  - b. \$450 - The Jewish Masculinity in Germany conference, December 12-13, 2005.
  - c. \$550 - National Conference on Race and Ethnicity, May 30 - June 3, 2006, Conference Registration for committee member Jan Estrellado.
  - d. \$200 - Mary Buccholz lecture, TBA, shared guest lecture fee.
  - e. \$25 - LGBT Health Issues throughout the Life Cycle. Registration for Francesco Carusi.
  - f. \$550 - Jackie Stacy lecture, May 1, 2006, **Genetic Visions: The Uncanny Architectures of Intimacy in *Code 46***, guest lecture fee.
  - g. \$300 - QPOC High School Conference.
  - h. \$500 - Rainbow Graduation and Induction into the LGBT Chapter of the UCSD Alumni Association - Saturday, June 10, 2006

### May 2006

- CAC GISOI participated in UCSD LGBT Resource Center Grand Opening.

## 2. Briefing from Housing Work Group

### Overview

The Housing Working Group:

- a. Addresses the issues that affect LGBT persons in housing
- b. Studies the cultural climate, and assesses the current protocols in place regarding Housing
- c. Uses the information to make recommendations, to develop protocol and to implement new strategies to create and maintain a welcoming housing environment.

### Main Events

- May 5, 2005: With consultation from the Housing Work Group of the CACGISO, the staff of the LGBT Resource Center met with the Council of Resident Deans (CORD) and Council of Assistant Resident Deans (CARD). During that meeting:
  - Basic language and issues regarding the transgender community were discussed, as well as challenges and models for working with Housing to include the transgender community.
  - A goal was established to draft policies to explicitly include transgender students in Housing.
  - CORD/CARD recommended that the CACGISO meet with Vice Chancellor Watson and the College Deans so that they have the knowledge and information to make informed decisions regarding their support of the options for trans students regarding Residence Life and Housing.
- May 25, 2005: The staff of the LGBT Resource Center met with the Council of Deans. During that meeting:
  - Goals and timeline as outlined were supported.
  - Deans recommended that CACGISO meet with Vice Chancellor Watson and possibly with Vice Chancellor Relyea.
  - Deans had some concerns regarding legal issues, communicating with parents, and training with other staff.
  - Council of Deans recommended meeting with the Council of Assistant Deans. That meeting is forthcoming.
- Summer 2005: A small working group composed of one Resident Dean, Rey Guerrero, the staff of the LGBT Resource Center, and Leanne Besachio from Housing was established to create the "Transgender Students in Residence Life and Housing Procedures and Protocols" document (attached).

### Accomplishments

- Development of protocol between Housing, Residence Life, Student Affairs, CACGISO, and the LGBT Resource Center to support transgender students in Housing.
- Establishment of clear lines of communication between Housing, Residence Life, Student Affairs, and the LGBT Resource Center.
- Increase in campus awareness regarding transgender issues, especially as they may relate to housing.

### 3. CAC GISOI Summary and Recommendations

The following are recommendations from CAC GISOI for action and change:

- Fund and complete a professionally done LGBT UCSD Climate survey, including quantitative and measurable scientific data, with a strategic action plan and timeline for completion.
- Ensure that the Diversity Council is versed in LGBT issues and that these issues are addressed and discussed. CACGISOI applauds the current recommendation that one of the CACGISOI co-chairs (or designee) be included as a member of the campus Diversity Council.
- Clarify the legal commitments and obligations of the university in working with people from the transgender community.
- Re-implement a course in Queer Studies.
- Create unisex bathrooms whenever possible in future and renovated buildings.
- Create a space for LGBT-oriented housing for UCSD students.
- Ensure that the Human Resources diversity workshop includes LGBT issues.

# LGBT Health 04



**Dr. Davey Smith**, Adjunct Assistant Professor in the UCSD Division of Infectious Diseases will speak about physicians' attitudes toward homosexuality and HIV

**Thursday, March 11, 2004**

**12:00 noon**

**Room 111A of the Chancellor's Complex**

**Light refreshments will be provided**

This is the kick-off of the UCSD School of Medicine Lesbian Gay Bisexual and Transgender Allies in Medicine (LGBTAM) speaker series

Sponsored by the Health Sciences Working Group of the Chancellor's Advisory Committee on Gender Identity and Sexual Orientation Issues

For more information, email [rainbow@ucsd.edu](mailto:rainbow@ucsd.edu) or call (858) 822-3493.

This program is FREE and open to the public.





UNIVERSITY OF CALIFORNIA, SAN DIEGO

UCSD

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 SANTA BARBARA SANTA CRUZ
 

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 CHANCELLOR'S ADVISORY COMMITTEE ON  
 GENDER IDENTITY AND SEXUAL ORIENTATION ISSUES

 9500 GILMAN DRIVE DEPT 0176-L  
 LA JOLLA CALIFORNIA 92093-0176

January 20, 2004

Mark P. Cunningham, Director Housing and Dining Services  
 Mail Code 0090

Dear Mr. Cunningham,

*The Chancellor's Advisory Committee on Gender Identity and Sexual Orientation Issues conducted various focus groups this past summer to get a better idea of the climate at UCSD relating to gender identity and sexual orientation issues. In the focus groups held with undergraduate students two issues were brought to our attention by several participants. They both relate to undergraduate residential housing. Students were unable to self identify their gender on the housing application or personal history form. Currently the Personal History Form allows you to pick either Male or Female. Also, students did not feel there was a way to pair roommates that would be comfortable sharing a living space with someone that may have a sexual orientation other than their own.*

*The Chancellor's Advisory Committee has had an opportunity to discuss and reviewed both of these issues and would like to recommend the following changes to the UCSD Undergraduate Residential Housing Personal History Form.*

- Add  \_\_\_\_\_ (Self Identification) after Female in the Gender section.
- Add the following question to the Roommate Matching section:  
 "I am comfortable living with someone whose sexual orientation differs from mine."

The Committee was very careful in wording the question for the Roommate Matching section. We did not want students to feel if they checked the box "yes" that they were identifying themselves as lesbian, gay, bisexual or transgendered. In addition, the term "sexual orientation" is widely accepted and is used throughout campus and the UC system in many of its policies and legal descriptions.

The Chancellor's Advisory Committee on Gender Identity and Sexual Orientation Issues would like to take this opportunity to thank you in advance for considering these changes. We hope these changes can be made as soon as possible. If you have any questions or concerns please do not hesitate to contact us directly. Debbi can be reached by email at [dblake@ucsd.edu](mailto:dblake@ucsd.edu) or at 822-3494 and James can be reached at [jforcier@ucsd.edu](mailto:jforcier@ucsd.edu) or by telephone at 534-8247.

Additionally, once the Campus Climate Report has been published and presented to the Chancellor, we will be forwarding you a copy for your information.

Cordially,

James A. Forcier  
 Co-Chair

Debbi Blake  
 Co-Chair

CC: Chancellor's Office

## GENDER IDENTITY AND EXPRESSION ISSUES AT COLLEGES AND UNIVERSITIES

## INTRODUCTION:

The term, “transgender,” refers to a person whose “gender identity or gender presentation falls outside of stereotypical gender norms.[\[1\]](#)” As a result of their gender identity or expression [\[2\]](#), transgendered persons may face varying degrees of discrimination in employment and other environments. For many years, federal and state courts routinely held that sex discrimination laws did not protect transgendered persons. More recently, some courts have recognized employment discrimination claims where the purported adverse action took place as a result of sexual stereotyping connected with a person’s gender identity or expression. Some colleges and universities [\[3\]](#) also have been addressing gender identity and expression issues through voluntarily adopted policies. This NACUANOTE discusses these recent developments, identifies issues likely to arise on campus in the employment and student affairs contexts, and provides practical tips and resources for counsel who wish to advise clients regarding this evolving area of law.

## DISCUSSION:

**I. Applicable Statutes and Case Law***Sex Discrimination***Title VII**

[Title VII of the Civil Rights Act of 1964](#) protects employees from discrimination on the basis of sex [\[4\]](#). In the 1970s, courts began to address the nature and extent of that protection as it related to gender identity or expression. At that time, federal courts focused on the plaintiff’s status as a transsexual [\[5\]](#), and consistently ruled that discrimination against transsexuals did not constitute “sex discrimination” under Title VII [\[6\]](#).

**Development of Title VII Sexual Stereotyping Rationale**

In [Price Waterhouse v. Hopkins](#) [\[7\]](#), the United States Supreme Court held that discriminatory conduct directed toward the plaintiff (a non-transsexual woman) based on sexual stereotyping, such as conclusions that the plaintiff’s mannerisms and dress were “macho” and not sufficiently “feminine,” constituted discrimination on the basis of her sex and therefore violated Title VII [\[8\]](#).

**Title VII Protection**

The Sixth Circuit Court of Appeals has since applied the [Price Waterhouse](#) rationale to extend protection to transgendered persons [\[9\]](#). In [Smith v. City of Salem, 378 F.3d 566 \(6th Cir. 2004\)](#) [\[10\]](#), the Sixth Circuit considered whether Title VII prohibited discrimination against a firefighter who was biologically and by birth a male, but who began expressing a feminine appearance at work. The court held that Smith was discriminated against on the basis of his sex (male), because his gender-related expression failed to conform to his employer’s stereotypical

assumptions about masculinity. In so holding, the court determined that the Title VII protection against sexual stereotyping afforded under [Price Waterhouse](#) was not conditional nor did it exclude coverage for non-sex-stereotypical behavior merely because the plaintiff is transsexual. The court found that “sex stereotyping based on a person’s gender non-conforming behavior is impermissible discrimination, irrespective of the cause of that behavior; a label, such as ‘transsexual,’ is not fatal to a sex discrimination claim where the victim has suffered discrimination because of his or her gender non-conformity.” Thus, discrimination based on a person’s gender expression was enough to permit the plaintiff to use Title VII to challenge the discrimination [11]. The Sixth Circuit applied the same rationale in [Barnes v. City of Cincinnati](#), 401 F.3d 729 (6th Cir. 2005) [12], another Title VII case involving a transsexual police officer. Other federal courts may construe Title VII similarly, particularly in circuits where the Court of Appeals has already held or implied that the [Price Waterhouse](#) rationale protects transgendered persons in non-employment contexts [13].

### **State Law-Based Discrimination Claims**

State and federal courts applying state law have reached various conclusions as to whether transgendered individuals are protected by state anti-discrimination statutes. Some courts have followed the restrictive rationale found in [Ulane v. Eastern Airlines, Inc.](#) and [Holloway v. Arthur Andersen & Co.](#), both before and after [Price Waterhouse](#) [14]. Other relatively more recent state court decisions, however, have rejected the restrictive approach, and extended protection to transgendered individuals based on the [Price Waterhouse](#) rationale and/or state courts’ prerogative to interpret state anti-discrimination provisions without deference to federal law [15]. Moreover, some state administrative agencies have extended protection based on similar rationales [16].

In addition to the recent cases just described, related legislative developments are occurring in various jurisdictions at the state and local level [17].

### *Sexual Orientation*

#### **Title VII Does Not Protect Sexual Orientation**

While federal courts are increasingly willing to apply the [Price Waterhouse](#) rationale to sex discrimination claims based on sexual stereotyping of transsexual individuals, they typically have noted that gender identity and/or expression are distinct from sexual orientation. As a result of this distinction, these courts have stated that the Title VII protection afforded under the “sexual stereotyping” rationale does not extend protection to individuals discriminated against because of their sexual orientation – a form of discrimination that remains outside the settled scope of federal sex discrimination laws [18].

### *Disability Claims*

#### **The Americans With Disabilities Act and the Rehabilitation Act Do Not Protect Transsexualism**

As a matter of federal law, the [Americans with Disabilities Act \(“ADA”\)](#) and the [Rehabilitation Act of 1973](#) expressly exclude “transsexualism” and “gender identity disorders not resulting from physical impairments. [19]” This is so even though transsexualism is characterized as a psychiatric disorder in the American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders (“DSM-IV-TR”) under the category of a “gender identity disorder. [20]”

State courts reach various conclusions on the availability of disability discrimination law protection, depending on the statutory language at issue and the willingness of judges to draw inferences in the absence of clear directives [\[21\]](#).

## II. Gender Identity and Expression Issues on Campus

While federal and state discrimination case law has focused predominantly on gender identity and expression issues in the employment context, gender identity and expression discrimination claims may arise in health care, housing, educational services and related programs, and other venues. In fact, some universities are addressing student requests for services and accommodations in addition to those advanced by employees. As just noted, the Sixth Circuit has held that the *Price Waterhouse* rationale protects transgendered persons in contexts additional to employment. As a result, it is possible that a variant of *Price Waterhouse* protection will be found under the rubric of Title IX [\[22\]](#).

Whether as a matter of perceived legal obligation, or simply of institutional policy, some colleges and universities may wish to address the concerns of transgendered employees and students. If so, based on recent cases dealing with non-university settings, areas in which gender identity and expression-related issues predictably will arise at universities are identified below.

- Recordkeeping

Employees and students are asked on various forms to identify their “sex,” and most forms offer two options from which to choose. An institution may wish to consider asking employees and students to self-identify their gender and leave a blank space after the question. In addition, transgender persons may adopt a name different than their birth names, and their current gender identity/expression may not correspond to a birth name. Universities therefore may wish to consider under what conditions institutional records and documents will (and can legally) be changed to reflect an individual’s (new) gender identity.

- Health Insurance

Private insurance plans typically exclude coverage for surgical and/or medical treatment related to transgendering. There are increasingly numerous judicial and administrative agency rulings (discussion of which is beyond the scope of this Note) addressing whether transsexual employees are entitled to specific treatment under private employer, and state or federal, health benefits plans [\[23\]](#). Counsel should consider how these issues may affect their institutions in light of applicable plan language, any judicial or agency decisions in their jurisdiction, and voluntarily adopted institutional policies that might entitle employees or students to benefits coverage regardless of the availability of insurance.

- Restrooms

Transgender employees and students may be subject to harassment or violence when using restrooms that conform to their gender identity or its expression but not to their biological state. Similarly, non-transgender

employees and students may experience discomfort sharing such facilities with transgender individuals. Institutions thus may wish to consider designating certain restrooms gender-neutral or single-occupancy. Creating gender-neutral or single occupancy restrooms may benefit not only the transgender community on campus but families with small children and persons requiring the services of a caretaker as well.

- **Residence Halls**

When placing students in residence halls – in particular with roommates – almost all universities make assignments based in part on the student’s sex. This approach may not be appropriate in situations involving transgender students. Institutions therefore may wish to address such issues, for example, by creating gender-neutral or all-gender residence halls or floors offering housing to persons of any gender. Institutions also may want to consider creating designated residence hall floors involving transgender students that maintain gender-neutral bathrooms and mixed-gender rooms. Additionally, an institution may want to use single-occupancy rooms to house transgender students.

- **Locker Rooms**

Locker rooms may present intimidating situations for transgender persons who fear being exposed as transgender when changing in front of others. Institutions may wish to create private, unisex or “family” locker rooms or sections of locker room areas, including private showering facilities, to address such issues.

### **III. Gender Identity and Institutional Discrimination Policies**

Research on institutional policies shows that some universities, either voluntarily or as a result of state or local legislative developments, are adding gender identity or expression (or similar classifications) to non-discrimination policy statements [\[24\]](#).

When applying current policies or considering policy amendments:

- Counsel should assist campus administrators in identifying any potential exposure for sex discrimination claims involving gender identity or expression in view of the judicial developments noted above. Specifically, counsel should consult their own state and local discrimination statutes and ordinances to determine if they specifically include gender identity as a prohibited basis of discrimination, or if gender identity is likely to be interpreted as a prohibited form of sex discrimination under precedent in their federal and state jurisdictions.
- Counsel should assist campus administrators in determining whether institutional equal opportunity and other non-discrimination policy statements

already provide protection to transgendered individuals, or whether they should be expressly amended to protect against discrimination on the basis of gender identity or expression [25]. In addition, counsel should assist administrators in determining the legal obligations associated with such action.

- Institutions may wish to augment existing anti-discrimination and diversity training offered to employees and students with education and training regarding issues of gender identity or expression.

Absent a finding by counsel of a clear legal obligation of non-discrimination with respect to transgendered individuals, formulation of institutional policy in this area will involve careful consideration of many factors, including fairness to transgendered students and employees, due respect for the opinions of all members of the college community, of alumni and of others with an interest in the affairs of the institutions. Counsel can help administrators in determining what, if any, policy changes in this area will best serve the interests of their institution.

#### CONCLUSION:

There is some case law supporting the prohibition of discrimination on the basis of gender identity or expression under laws that prohibit sex discrimination. Counsel and the institutions they represent should be aware of this case law and weigh its potential impact for their institution. Issues of gender identity and expression are ripe for discussion on some college and university campuses. While there are courts that have determined that discrimination on the basis of gender identity and expression may be prohibited under laws prohibiting sex discrimination, there are also courts that disagree with those determinations or have not yet addressed the issues. University counsel are in a critical position to advise college and university administrators of these evolving legal developments. Counsel should apprise administrators of the development of the law in their locale and what possible issues may arise at their institutions.

#### FOOTNOTES

#### RESOURCES FOR COUNSEL:

##### NACUA Resources:

- [Advancements in State and Federal Law Regarding Transgender Employees](#) and attachment: [Board of Education Administrative Regulation: Non-Discrimination for Students and Employees](#), March 2005, Shannon Minter
- [Recent Developments in Sexual Harassment Law](#), March 19-21, 2003, Elsa Kircher Cole and Thomas P. Hustoles

##### Statutes:

- [Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. \(2003\)](#)



- [42 U.S.C. § 1983 \(2005\)](#)
- [Americans with Disabilities Act, 42 U.S.C. § 12101 \(2003\)](#)
- [Rehabilitation Act of 1973, 29 U.S.C. § 705 \(20\)\(F\)\(i\) \(2003\)](#)
- [Rhode Island General Laws § 28-5-6\(10\) \(2004\)](#)

Court Decisions:

- [Price Waterhouse v. Hopkins, 490 U.S. 228, 109 S.Ct. 1775, 104 L.Ed.2d 268 \(1989\)](#)
- [Dawson v. Bumble and Bumble, 398 F.3d 211, 217-18 \(2d Cir. 2005\)](#)
- [Barnes v. City of Cincinnati, 401 F.3d 729 \(6th Cir. 2005\)](#)
- [Smith v. City of Salem, 378 F.3d 566 \(6th Cir. 2004\)](#)
- [Rosa v. Park West Bank & Trust Co., 214 F.3d 213, 215-16 \(1st Cir. 2000\)](#)
- [Simonton v. Runyon, 232 F.3d 33, 38 \(2d Cir. 2000\)](#)
- [Schwenk v. Hartford, 204 F.3d 1187, 1202 \(9th Cir. 2000\)](#)
- [Higgins v. New Balance Athletic Shoe, Inc., 194 F.3d 252, 261 n.4 \(1st Cir. 1999\)](#)
- [Ulane v. Eastern Airlines, Inc., 742 F.2d 1081 \(7th Cir. 1984\)](#)
- *Sommers v. Budget Mktg., Inc.*, 667 F.2d 748, 750 (8th Cir. 1982)
- *Holloway v. Arthur Andersen & Co.*, 566 F.2d 659, 661-63 (9th Cir. 1977)
- *Underwood v. Archer Management Services, Inc.*, 857 F. Supp. 96, 98 (D.D.C. 1994)
- *Oiler v. Winn-Dixie Louisiana, Inc.* No. Civ. A. 00-3114, 2002 U.S. Dist. LEXIS 17417, 2002 WL 31098541, at \*8 (E.D. La. Sept. 16, 2002)
- *Trigg v. New York City Transit Auth.*, No. 99 Civ. 4730, 2001 U.S. Dist. LEXIS 10825, 2001 WL 868336, at \*6 (E.D.N.Y. July 26, 2001)
- *Rentos v. OCE-Office Systems*, 1996 U.S. Dist. LEXIS 19060 at \*25 (S.D.N.Y. 1996)
- *Dobre v. National R.R. Passenger Corp.*, 850 F. Supp. 284, 288 (E.D.Pa. 1993)
- *Conway v. City of Hartford*, 1997 Conn. Super. LEXIS 282,\*19 (Conn. Super. 1997)
- [RGIS Inventory Specialist v. Hawaii Civil Rights Commission, 104 Haw. 158 \(2004\)](#)
- *Sommers v. Iowa Civil Rights Commission*, 337 N.W.2d 470, 474 (Iowa 1983)

- Lie v. Sky Pub. Corp., 2002 WL 31492397 (Mass. Super. 2002)
- [Enriquez v. West Jersey Health Systems, 777 A.2d 365, 373 \(N.J. Super. 2001\)](#)
- [Maffei v. Kolaeton Industry, Inc., 164 Misc.2d 547, 555, 626 N.Y.S. 391, 396 \(N.Y. Sup.Ct. 1995\)](#)
- Holt v. Northwest Pa. Training P'ship Consortium, Inc., 694 A.2d 1134, 1139 (Pa. Commw. Ct. 1997)
- Barretto-Neto v. Town of Hardwick, Determination of Vermont Attorney General's Office, No. 03-10104-cr (Nov. 9, 2003)

Administrative Decisions:

- Declaratory Order of Hawai'i Civil Rights Commission, D.R. No. 02-0015
- [Declaratory Ruling on behalf of John/Jane Doe, Connecticut Commission on Human Rights and Opportunities \(Nov. 9, 2000\)](#)

[Additional Resources](#)

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*"To advance the effective practice of higher education attorneys for the benefit of the colleges and universities they serve."*



**Transgender Students in Residence Life and Housing  
Procedures and Protocols**  
Adopted January 27, 2006

The following is the public statement regarding transgender students in housing, available for college websites and publications throughout UCSD:

*As are all of our resident students, transgender students are valued members of the on-campus living community at the University of California, San Diego. In order to provide support for the needs of incoming and current transgender students, we strongly encourage students to contact Leanne Besachio, the Residence Life Liaison, at (858) 822-1782, [lbesachio@ucsd.edu](mailto:lbesachio@ucsd.edu). For more information regarding transgender living concerns and the transgender community at UCSD, please go to <http://lgbt.ucsd.edu>.*

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Below are implementing procedures and protocols. For the purposes of this document, we use the term transgender to encompass all gender-variant people. For more information on terminology relating to transgender issues, please see the document "Trans 101" produced by UCSD's LGBT Resource Center.

On-campus housing at UCSD is gendered in all colleges, and co-ed housing is only available for selected continuing students in the Muir College Apartments as of Fall 2005. These procedures are designed to help staff make the best decisions possible working within the system as currently established.

Supporting students coming into housing

Students are encouraged to contact the Residence Life Liaison before arriving to UCSD. For the 2006-2007 year, the priority deadline would be before August 1, 2006. In meeting the needs of the incoming student, UCSD will recognize and respect the gender identity the student has established with housing. Staff will not ask for any more information than is required to meet the student's housing needs, and all disclosed information will be kept strictly confidential.

Students who do not contact the Residence Life Liaison may have any number of initial points of contact within the housing and residence life staff. Anyone who becomes a first point of contact for a transgender-identified person should respond appropriately to their immediate concerns, and then refer them to the Residence Life Liaison. At all times, UCSD will recognize and respect the gender identity the student has established, will not ask for any more information than is required to meet the student's housing needs, and will keep all disclosed information strictly confidential.

The Residence Life Liaison will, through conversation and specific knowledge regarding the living environments of the colleges, and in coordination with the Resident Deans, provide students with the options available to them, given their college. If it appears that restroom privacy is the highest concern for the student, the apartment-style living that is available in all six colleges at UCSD would be the best option for the student.

However, each student is unique, and will have different needs and desires. The Residence Life Liaison will address all situations on a case-by-case basis.

The Residence Life Liaison will communicate with the Resident Deans regarding the needs of the transgender students to determine the best possible housing situation that can be provided given the existing college-based, gendered system. If a Resident Dean is not comfortable with the request made by the Residence Life Liaison to meet the needs of the transgender student, the issue will go before the Council of Resident Deans for resolution.

Because UCSD does not place women and men in the same residence-hall room or apartment, transitioning students will need to be housed with someone of the same gender identity or expression. If the roommates of the transgender student are different genders than the gender identity of the

transgender student, the Resident Dean would then make the determination to allow the living situation on an as needed basis to meet the needs of our transgender identified students. Additionally, because UCSD does not place students in colleges different from their own, if the roommates of the transgender student are from different colleges, the Resident Dean would make the determination to allow the living situation on an as needed basis to meet the needs of our transgender identified students. The Residence Life Liaison is integral to the success of these decisions, to ensure timely and accurate communication to the transgender student.

#### Supporting students who are already in housing

Students who are already housed at UCSD and determine a need within housing based on their transitioning gender identity should contact the Residence Life Liaison. If the timing is between the first and second year of on-campus living, housing will make pre-assignments as possible. There are significant responsibilities that all students have when applying for housing, including active engagement in finding roommates, selecting living environments, etc. However, at no time will housing force a transgender student, who has followed housing procedures and met the above responsibilities, to have to find a comfortable, welcoming housing assignment on their own.

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If the timing comes during the middle of an academic year, the student should contact the Residence Life Liaison. The Residence Life Liaison and the Resident Dean will address the concerns raised on a case-by-case basis.

#### Addressing the concerns of those who live with transgender students

If students have a conflict with a roommate because of their gender identity or expression, students should see their Resident Dean Staff first. Resident Dean Staff will have taken part in training specifically on gender identity/expression issues. If talking with the Resident Dean staff brings no resolution, a student can discuss the matter with the Dean of the College, the Campus Ombudsperson, or the Director of the Lesbian Gay Bisexual Transgender Resource Center.