

EEOC	<i>DIRECTIVES TRANSMITTAL</i>	Number 560.008
		Date June 22, 2016

I. SUBJECT: Non-Discrimination and Inclusion Policy Regarding Gender Identity and Sexual Orientation

II. PURPOSE: This workplace non-discrimination and inclusion policy states that the Commission’s existing internal EEO policies prohibiting sex discrimination against applicants and employees of the agency include discrimination based on gender identity (including transgender status) or sexual orientation.

III. EFFECTIVE DATE: Upon issuance

IV. ORIGINATORS: Office of the Chair, Office of the Chief Human Capital Officer, Office of Equal Opportunity

V. PROHIBITION ON DISCRIMINATION AND COMMITMENT TO INCLUSION

As set forth in a range of statutes and Presidential Executive Orders, as well as the Commission’s existing internal orders and policies, it is the policy of the federal government and the EEOC to maintain a workplace free from any discrimination, including harassment, based on race, color, national origin, religion, sex, pregnancy, gender identity, sexual orientation, age, parental status, disability, genetic information (including family medical history), political affiliation, military service, or other non-merit based factors. These protections also extend to retaliation for EEO activity. These protections extend to all management practices and decisions, including recruitment and hiring, appraisals, promotions, and training and career development.

In addition, the Commission has held that under Title VII of the Civil Rights Act of 1964, the prohibition on sex discrimination itself includes discrimination based on gender identity and sexual orientation. *See Macy v. Dep’t of Justice*, EEOC Appeal No. 0120120821, 2012 WL 1435995 (Apr. 20, 2012) (holding that discrimination because an applicant or employee is transgender is, by definition, discrimination based on sex in violation of Title VII); *Jameson v. U.S. Postal Service*, EEOC Appeal No. 0120130992, 2013 WL 2368729 (May 21, 2013) (holding that intentional repeated misuse of a transgender employee’s new name and pronoun may constitute sex based discrimination and/or harassment); *Eric S. v. Dep’t of Veterans Affairs*, EEOC Appeal No. 0120133123, 2014 WL 1653484 (Apr. 16, 2014) (holding that an allegation involving the failure to revise agency records pursuant to changes in gender identity stated a valid Title VII sex discrimination claim); *Lusardi v. Dep’t of the Army*, EEOC Appeal No. 0120133395, 2015 WL 1607756 (Mar. 27, 2015) (holding that employer restrictions on a transgender woman’s ability to use a common female restroom facility constituted disparate treatment on the basis of sex and that the restroom restrictions combined with hostile remarks, including intentional pronoun misuse, created a hostile work environment on the basis of sex); *Baldwin v. Dep’t of Transportation*, EEOC Appeal No. 0120133080, 2015 WL 4397641 (July

15, 2015) (holding that a claim alleging discrimination on the basis of sexual orientation necessarily states a claim of sex discrimination under Title VII).

The question-and-answer document issued with this Order and incorporated herein provides practical information and advice for our managers, supervisors, and employees in order to support our Agency's nondiscrimination and inclusion efforts with respect to gender identity and sexual orientation. Both this Order and the accompanying question-and-answer document have been issued pursuant to EEOC procedures and in coordination with headquarters program offices.

June 22, 2016

6/22/16
Date



Jenny R. Yang
Chair