

SECTION 5: LGBTQ+ LAW AND POLICY

5.1: LGBTQ+ RIGHTS (US LAWS AND POLICIES)

Much progress has been made in the last 70 years in LGBTQ+ rights. Some of the highlights are:

1950

The first lasting gay organization, the Mattachine Society, is formed in Los Angeles. They refer to themselves as a “homophile” group.

1962

Illinois becomes the first US state to remove sodomy law from its criminal code.

1963

The first gay rights demonstration in the USA takes place on September 19 at the Whitehall Induction Center in New York City, protesting against discrimination in the military.

1966

Members of the Mattachine Society stage a “sip-in” at the Julius Bar in Greenwich Village, where the New York Liquor Authority prohibits serving gay patrons in bars on the basis that they are “disorderly.” Following the sip-in, the Mattachine Society sues the New York Liquor Authority. Although no laws are overturned, the New York City Commission on Human Rights declares that homosexuals have the right to be served.

Compton Cafeteria Riot breaks out at a San Francisco eatery when trans women are denied service and arrested for breaking gendered clothing laws.

1969

Police raid the Stonewall Inn in New York City in the early hours of June 28. This leads to four days of struggle between police and LGBTQ people. Transgender people, LGBTQ people of color, and youth are a major part of these “riots” that mark the birth of the modern LGBTQ movement.

1970

The first “Gay Liberation Day March” is held in New York City. Marsha “Pay It No Mind” Johnson and Sylvia Rivera are co-founders of Street Transvestites Action Revolutionaries (STAR).

1973

The board of the American Psychiatric Association votes 13-0 to remove homosexuality from its official list of psychiatric disorders, the DSM-II. The resolution also urges an end to private and public discrimination and repeal of laws discriminating against homosexuals.

1977

Harvey Milk becomes the first openly gay person to be elected to public office in California when he wins a seat on the San Francisco Board Supervisors. He is responsible for introducing a gay rights ordinance protecting gays and lesbians from being fired from their jobs. Milk also leads a successful campaign against Proposition 6, an initiative forbidding homosexual teachers.

1979

An estimated 75,000 people participate in the National March on Washington for Lesbian and Gay Rights. LGBT people and straight allies demand equal civil rights and urge the passage of protective civil rights legislation.

1982

Wisconsin becomes the first US state to outlaw discrimination on the basis of sexual orientation.

1987

ACT UP, a direct-action activist group, is founded in the LGBT Community Center in New York City to bring attention to AIDS-related issues using civil disobedience.

1998

Matthew Shepard, a gay Wyoming college student, is brutally beaten by two young men, tied to a fence and left overnight. He dies six days later.

2000

Vermont becomes the first state in the US to legalize civil unions and registered partnerships between same-sex couples.

2002

NYC expands the definition of “gender” to include protections for transgender and gender nonconforming people in employment, housing, and public accommodations in the NYC Human Rights Law.

2003

The US Supreme Court overturns sodomy laws, proclaiming rights to privacy and decriminalizing “homosexual” behavior.

2004

Massachusetts becomes the first US state to legally recognize same-sex marriage.

2009

President Obama signs the Matthew Shepard and James Byrd, Jr. Hate Crimes and Prevention Act, also known as the Matthew Shepard Act, into law. The law expands the 1969 US federal hate-crime law to include crimes motivated by a victim’s actual or perceived sexual orientation, gender identity, or disability, and becomes the first federal law to include legal protections for transgender people.

2011

The US military policy “Don’t Ask, Don’t Tell” officially ends. This allows lesbian, gay, and bisexual people to serve openly in the military. The repeal of “Don’t Ask, Don’t Tell” does not lift regulations barring many transgender people from serving.

United States Department of Education Secretary Arne Duncan issues a statement clarifying that students have the right to form gay-straight alliances (GSAs) under the Equal Access Act of 1984 in any public school that allows noncurricular student groups to form. Schools must also provide GSAs with the same opportunities as other groups to convene and access resources.

2013

The US federally recognizes same-sex marriages, extending federal benefits to couples in states that allow same-sex marriage. The Supreme Court strikes down the Defense of Marriage Act (DOMA). On this same day, the Supreme Court also rules that California’s Proposition 8 ban on same-sex marriage is unconstitutional, allowing California to become the 13th state where same-sex couples can marry.

2014

The Department of Education issues official guidance to clarify that transgender students are protected from discrimination under Title IX, a federal civil rights law that prohibits discrimination against students on the bases of sex/gender in federally funded education programs and activities.

2015

The Supreme Court rules that states are constitutionally required to issue marriage licenses to same-sex couples, legalizing marriage equality in all 50 states.

2016

Secretary of Defense Ash Carter announces that the Pentagon is lifting the ban on transgender people serving openly in the US military.

2017

District of Columbia residents can now choose a gender-neutral option of their driver’s license. DC residents become the first people in the United States to be able to choose X as their gender marker instead of male or female on driver’s licenses and identification cards.

2019

New York Governor Andrew Cuomo signs a law banning the use of the so-called gay and trans panic legal defense strategy. The tactic asks a jury to find that a victim’s sexual orientation or gender identity is to blame for a defendant’s violent reaction.

2020

The Supreme Court rules that federal law protects LGBTQ workers from discrimination. The landmark ruling extends protections to millions of workers nationwide and is a defeat for the Trump administration, which argued that Title VII of the Civil Rights Act that bars discrimination based on sex did not extend to claims of gender identity and sexual orientation.

The Fourth Circuit Court of Appeals rules in favor of former student Gavin Grimm in a more than four-year fight over restroom policies for transgender students. The ruling states that policies segregating transgender students from their peers are unconstitutional and violate federal law prohibiting sex discrimination in education.

The Human Rights Campaign released a [blueprint for administrative action](#) for the Biden administration in November 2020.

5.2: COLUMBIA FACULTY CONTRIBUTIONS TO LGBTQ+ RIGHTS

If you look around the city, country, and world, you'll find contributions by Columbia faculty members to advocacy for LGBTQ+ people on an almost endless array of issues. This small sampling offers some highlights—and because the field is ever-changing, these contributions will no doubt continue in the years ahead.

“I feel like in my four years, I’ve already seen the burgeoning of a really vital undergraduate community of LGBT students who are going to go out into the world and into the city and make a big impact. And that feels very encouraging.”

(Senior faculty member, Morningside)

Transgender rights. Empirical research and expert consensus panels in which Columbia faculty participated have contributed significantly to transgender rights. Such evidence and consensus has been used to educate the courts in landmark cases on employment discrimination, family law, access to gender-affirming healthcare, and use of restroom facilities. For example, in the 2005 federal court case of *Schroer v. Billington* (McGowan 2010), the plaintiff’s team argued that Ms. Schroer, a transgender woman, was discriminated on the basis of sex when the US Library of Congress rescinded her job offer after learning about her gender transition. Walter Bockting, currently Professor of Medical Psychology (in Psychiatry and Nursing) at Columbia, testified that gender identity was one of nine components of sex and arguably the most important one. Bockting further explained that when a person experiences distress because of an incongruence between their gender identity and physical sex characteristics, psychosocial and medical interventions are available and proven effective in alleviating this distress by affirming a person’s gender identity. The defendant’s team argued instead that sex is ultimately defined by a person’s chromosomes and thus cannot be changed. In the end, the court did not rule on whether gender identity is part of one’s sex or not. However, the court did find that the Library’s decision to rescind the job offer upon learning that Ms. Schroer was transitioning from one sex to another was discrimination on the basis of sex actionable under Title VII. In 2020, the Supreme Court of the United States came to a similar conclusion in *Harris Funeral Homes, Inc. v. Equal Employment Opportunity Commission et al.*

Marriage equality is perhaps the best known of LGBTQ+ advocacy issues in recent decades, and Columbia faculty have been deeply involved in helping to illuminate the legal and historical harms caused by the exclusion of same-sex couples from marriage. Suzanne Goldberg, Herbert and Doris Wechsler Clinical Professor of Law, began her involvement prior to joining Columbia, back in the 1990s, when she was a staff attorney at Lambda Legal, a national LGBT legal advocacy organization. Since 2006, as Founder and Director of the Columbia Law School Sexuality & Gender Law Clinic, Goldberg and her students have filed amicus briefs in nearly every marriage case in the country, including *Obergefell v. Hodges*, in which the US Supreme Court recognized a constitutional right to marry for same-sex couples. George Chauncey, DeWitt Clinton Professor of American History, played a crucial role in marriage equality cases across the country as an expert witness. He submitted affidavits, testified as a witness, and contributed to important amicus briefs, all designed to put the exclusion of same-sex couples from marriage into the historical context of long-standing discrimination and hostility toward lesbians and gay men. Katherine Franke, James L. Dohr Professor of Law at Columbia Law School and Director of the Law School’s Center for Gender and Sexuality Law and its Law, Rights, and Religion Project, published the highly regarded 2015 book *Wedlocked: The Perils of Marriage Equality*, in which she explored the lessons that today’s marriage equality movement could draw from the right to marry enjoyed by formerly enslaved people at the end of the US Civil War.

Law, rights, and religion. After marriage equality was recognized, a major challenge started to take hold in the US: some business owners decided not to serve LGBTQ+ customers who wanted to purchase goods—like a wedding cake—or services, like a photographer—for their weddings. They did this even where state law prohibited discrimination based on sexual orientation. Katherine Franke has played a leading role, bringing together scholars to critique the use of faith as a justification for disregard of antidiscrimination laws. She has filed briefs in a variety of cases to make the point that religious liberty rights must be recognized in a way that advances rather than impedes equality, and thus the limit of religious liberty rights can be found when they are used to deny equality to others. In another case now pending before the US Supreme Court, Franke filed an important amicus brief with other scholars of law and religion, arguing that a taxpayer-funded religious foster care agency should not be permitted to use its religious beliefs to justify the denial of services to LGBTQ+ parents and unmarried heterosexual parents. Suzanne Goldberg’s Sexuality and Gender Law Clinic

also signed onto an amicus brief in the case, focusing on the harms to women and to gender equity that would flow from a ruling allowing private organizations to use public funding to discriminate based on sex.

Workplace discrimination is another significant issue for LGBTQ+ individuals, and Columbia Law School's Center for Gender and Sexuality Law at Columbia Law School celebrated the June 2020 ruling from the US Supreme Court recognizing that workplace discrimination against lesbian, gay, and transgender employees is prohibited by Title VII, the federal law passed by Congress in 1964 that prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin. Suzanne Goldberg filed an amicus brief in the case on behalf of women CEOs and C-suite executives, including Shonda Rhimes and Sheryl Sandberg, arguing that a ruling against the gay and transgender plaintiffs in the case would "cut a large hole" in the fabric of American antidiscrimination law.

The **US military** is the nation's largest employer, and discrimination in its ranks is, consequently, deeply concerning both for those who seek to serve but are excluded and for other employers that take signals from the military about which forms of discrimination are permissible. Building on a foundation that brought an end to race discrimination by the military, advocates have, over many years, argued successfully for an end to discrimination based on sex, sexual orientation, and gender identity. When President Trump tweeted his plan to ban service by openly transgender individuals, just as that discriminatory policy was coming to an end, the Columbia Law School's Sexuality and Gender Law Clinic, through its Director Suzanne Goldberg, took part in several cases filed around the United States. The Clinic filed amicus briefs making the point that discrimination against transgender individuals violates the Supreme Court's traditional jurisprudence prohibiting discrimination based on sex.

Discrimination at school. Working with the NAACP Legal Defense and Educational Fund, Suzanne Goldberg has filed several amicus briefs in cases challenging schools that ban transgender students from using restrooms consistent with their gender identity. In these briefs, Goldberg and her co-counsel made the important point that segregation in public facilities—including restrooms as well as swimming pools and recreational settings—has a long and troubling history, and that the separation of transgender students from all others was part of this invidious and unconstitutional tradition.

Advocating for LGBTQ+ asylum seekers, youth in foster care, and transgender inmates. Columbia Law School's clinics have worked extensively to represent individuals who have fled persecution on account of their sexual orientation and gender identity, as well as LGBTQ+ youth in foster care who have faced challenges related to their sexual orientation and gender identity. The Sexuality and Gender Law Clinic has also advocated on behalf of transgender individuals in NYC jails, supporting a right to protective housing.

5.3: LGBTQ+ POLICIES AT COLUMBIA

There are several offices at Columbia that provide resources for LGBTQ+ faculty and staff, and their families. As policies are frequently updated and revised, please visit their websites for the most current information. For employees of [Barnard College](#) and [Teachers College](#), please visit their respective websites.

Columbia University Human Resources

There are a number of CU Human Resources policies that affect LGBTQ+ employees and their families. For a complete listing of CUHR policies, please visit the Human Resources website: <https://humanresources.columbia.edu/>.

- 1. The Columbia Human Resources [Benefit Service Center](#)** supports a process-flow to establish Same-Sex Domestic Partnership (SSDP) relationships. Employees should submit a Domestic Partnership Affidavit and required documentation through CUBES (Columbia University Benefits Enrollment System). For policies and procedures regarding [eligible dependents](#), visit the Human Resources [website](#).
- 2. [Paid leaves](#).** There are established policies at the state and federal levels that provide a base for Columbia's leave policies. Columbia supplements these policies and works on a case-by-case basis to expand leaves beyond the specific definitions at the state and federal levels.
- 3. [New York City Earned Safe and Sick Time](#)** allows for taking care of domestic partners.
- 4. [Family Building Benefits](#)** include the following policies:
 - [Surrogacy Assistance Program](#).** The Program reimburses the eligible employee up to \$30,000 per lifetime for eligible expenses.

Adoption Assistance Program. The Columbia University Adoption Assistance Program is a benefit designed to help with the cost of adopting a child. The benefit is offered to full-time, regular benefits-eligible Officers and full-time, regular Non-Union Support Staff, on or after the first day of full-time employment.

5. Tuition Programs include the following policies for Officers: [Tuition Exemption Benefit](#), [College Tuition Scholarship Benefit](#), and [Primary Tuition Scholarship Benefit](#).

Note: Concerning Same-Sex Domestic Partners (SSDP) and their children, for each Officer's tuition benefit policy, please note the eligible dependent documentation requirements.

EOAA Policies and Procedures

The Office of Equal Opportunity and Affirmative Action (EOAA) works to prevent and respond to discrimination and harassment by developing and implementing policies and procedures that address discrimination, harassment, and gender-based misconduct in accordance with relevant federal, state, and local antidiscrimination laws. **EOAA policy expressly prohibits discrimination and harassment on the basis of sexual orientation, gender (sex), and gender identity.** EOAA policy also prohibits discrimination and harassment on other axes of identity and experience that are relevant to LGBTQ+ people, including on the basis of age, alienage, or citizenship status; arrest or conviction record; caregiver status; color; credit history; creed; disability; familial status; genetic predisposition or carrier status; lactation accommodation; marital status; national origin; pregnancy; race; religion; salary history; sexual or reproductive health decisions; status as a victim of domestic violence, stalking, or sex offenses; unemployment status; veteran or active military status; and any other protected characteristic as established by law.

<https://eoaa.columbia.edu/content/non-discrimination-statement-and-policies>

Columbia Faculty Handbook

The Faculty Handbook outlines essential information about policies that govern aspects of academic life for Officers of Instruction and Officers of Research at Columbia University, including appointment and promotion processes and policies, leaves, and other policies.

www.columbia.edu/cu/vpaa/handbook/obligations.html

The Office of Work/Life supports the well-being of Columbia University's diverse community of faculty, staff, and students in their pursuit of meaningful and productive academic, personal, and work lives through a variety of programs and services. A few of these programs are highlighted below; please visit the website for more.

- [School and Child Care Search Service](#)
- [Housing Information and Referral Service](#)
- [Faculty Spouse/Partner Dual Career Service](#)
- [Well-Being Programs](#)

5.4: NEED FOR FURTHER POLICY DEVELOPMENT

“For more than two years, I’ve been out as nonbinary and trans in my role as Columbia’s Director of Social Media. This past year, I tried to correct my gender identity in my official employee file, a process that has been a painful failure and a minimal success. Very little about being out, or “officially” my fully genderqueer nonbinary self as a member of Columbia’s administration, has been easy or joyful. Sometimes, I wish I hadn’t bothered to tell anyone at work. I feel naive for expecting anything at all, knowing what I know about trans folks’ experiences at institutions like this. In better moments, I’m grateful for the privilege to help make things better and easier for whoever comes behind me.”

—Acacia O’Connor, Director of Social Media

Examples of areas in need of further development are:

- **Health plan coverage of assisted reproductive technology and gestational surrogacy.** Currently, coverage is based on demonstrated failure to conceive without assistance. Efforts are underway to change this infertility requirement, which often does not apply to LGBTQ+ families.
- **Continuation of domestic partnership benefits for all.** Prior to marriage equality, domestic partnership benefits were established for LGBTQ+ couples. After marriage equality was recognized, Columbia leadership agreed to not require marriage to extend benefits to domestic partners. However,

eligibility for domestic partnership benefits for unmarried straight couples has yet to be secured.

- **Streamlined process for name changes** across campus systems. Students expressed frustration about their preferred name being applied inconsistently, with the name on their campus ID not matching the systems in the Library or Student Health Services or Human Resources. This creates an additional burden for students who have to explain the discrepancy.