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**DO POLICIES MATTER? AN EXPLORATORY, QUALITATIVE STUDY  
OF THE LIVED EXPERIENCES ON CAMPUS OF TRANSGENDER  
AND NON-BINARY EDUCATION EMPLOYEES**

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**DO POLICIES MATTER?  
AN EXPLORATORY, QUALITATIVE STUDY OF THE LIVED EXPERIENCES ON  
CAMPUS OF TRANSGENDER AND NON-BINARY EDUCATION EMPLOYEES**

A Dissertation  
Presented in partial fulfillment of requirements  
for the degree of Doctor of Education in the Department of Higher Education  
at the University of Mississippi

by

SARAH CLAY

May 2022

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## ABSTRACT

The student population of American colleges and universities is becoming increasingly diverse. Though the racial and ethnic makeup of a campus population has been given the most attention in diversity and inclusion efforts, there has been a growing focus on LGBTQ issues in recent decades. As a result, institutions of higher learning have been working to develop responsive policies and programs that aim to promote LGBTQ inclusion amongst faculty, staff, and students.

However, the current socio-political climate in the United States is becoming intensely antagonistic toward gender non-conforming people. With gender identity being such a socially and politically divisive issue, many transgender and non-binary people report feeling unsafe and unsupported in all aspects of their daily lives, including at work. Though non-discrimination policies that cite *gender identity* as a protected trait go some way toward alleviating discomfort, microaggressions and other forms of discrimination for gender non-conforming people on college campuses, they represent only one dimension of creating welcoming environments for gender non-conforming people, especially if intolerant belief systems or non-inclusive policies and procedures persist.

This exploratory qualitative study examines the effectiveness of non-discrimination policies in protecting transgender and non-binary faculty and staff on college campuses. Through a series of semi-structured interviews, the author obtained data relating to the participants' perceptions of the efficacy of protective policies in providing job security in their places of

employment. Drawing from existing literature and the data provided by the interviews conducted for this study, it becomes apparent that that deeply embedded structural cisgenderism at institutions of higher learning are impacting the effectiveness of inclusion efforts. Training and education will be required for all stakeholders in order to promote a more expansive and equitable view of gender, and administrators must be prepared to lead a shift away from deeply embedded cisgender binary structural biases.

## DEDICATION

This dissertation is dedicated to my family and friends who supported me through this process and believed I could make it through, even when I struggled to believe it myself. I am always grateful for the encouragement of my parents, Steve and Kathleen, who tell everyone they know that I am brilliant, and they seem to truly believe this is true. I am thankful for the understanding of my children, Fiona and LÍadan, who sacrificed their time with me (often grudgingly) while I pushed myself to complete this research. Finally, I must especially thank my best friend, Megan Lowe, whose sense of purpose and commitment to excellence has served as an inspiration to me since we met 29 years ago. There is no person with whom I would rather have taken this journey.

## LIST OF ABBREVIATIONS

ACE	American Council on Education
ACLU	American Civil Liberties Union
CPED	Carnegie Project on the Educational Doctorate
DEI	Diversity, Equity, and Inclusion
IRB	Institutional Review Board

## ACKNOWLEDGEMENTS

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I must thank my husband, Adrian, and particularly my daughters, Fiona and Líadan, for their understanding in having to sacrifice their time with me as I worked to complete the necessary coursework for this degree. Though it has not been easy on any of us, they have been supportive as I made my way through this program, and they believed in my success. They have helped me more than they can possibly know throughout this process.

I want to sincerely thank the individuals who agreed to participate in this study and to speak to me about their experiences. This research involves topics that are not necessarily comfortable, yet you have entrusted me with your stories. I considered the showcasing of your voices to be a priority as I wrote this manuscript because I believe in the importance of what you have to say.

Finally, I must thank Megan Lowe. She has been pushing me to strive for academic excellence since we met as freshmen in high school. This time, however, it was my idea. I talked

her into taking this journey with me, not only because I knew she deserved to be “Dr. Lowe”, but also because I knew I could never get through it without her. If I am honest, I know we carried each other through as we always have, and always will.

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**Manuscript 1: Do Policies Matter? An Exploratory, Qualitative Study of the Lived Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

Sarah Clay

School of Education

University of Mississippi

October 2021

# **Manuscript 1: Do Policies Matter? An Exploratory, Qualitative Study of the Lived Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

## **Introduction**

The student population at colleges and universities in the United States is becoming increasingly diverse. Most higher education institutions also have initiatives in place that are geared toward increasing diversity among faculty and staff as well, as the importance of exposing students to mentors and teachers whose backgrounds and identities reflect their own has long been recognized as vital (Turner et al., 2014). As stated by Collins and Kristonis (2006):

“A diverse faculty will allow students to be exposed to a wide array of ideas, cultures, and individuals. In a diverse student population, students need to be exposed to teachers who are like them. They need to see people who have an impact on their lives, look like them, sound like them, and have similar life experiences” (Collins and Kristonis, 2006, p.2).

Furthermore, openly out faculty and staff can positively affect LGBTQ student experiences, providing vital resources, building mentoring relationships, and promoting an environment of inclusiveness in higher education communities (Dentato et al. 2014).

Scholars assert that “diversity tends to be understood as racial and ethnic, and, at times sex or gender diversity” (Woodford, Joslin, and Renn, 2016, p. 57). LGBTQ issues have received less attention than those of race in higher education, and this can be demonstrated through a search for *higher education and diversity and race* on Google Scholar for the years 2000-2002. This search yielded approximately 63,000 results. A similar search, substituting *LGBTQ* for *race*

yielded 355 results. This gives some indication about how much attention and consideration higher education scholars and researchers were placing on issues of race in comparison to those of the LGBTQ population in the early years of this century.

Scholarship on diversity in higher education has become more inclusive of LGBTQ interests in recent years, yet even now, interest in LGBTQ issues is dwarfed by that of race. Conducting an identical search between the years 2015 and 2020 yields approximately 19,000 results when including the *LGBTQ* parameter and 245,000 when including *race*. In 2013, the Chancellor of the Virginia Community College System formed a task force with the aim of “increasing the demographic diversity of the VCCS so that teaching faculty and leaders look more like the communities we serve” (Munday et al, 2014). In the resulting report, task force members admitted the difficulty in collecting data of certain under-represented populations. They explain that,

“definitions of diversity have historically focused on race and ethnicity, while current definitions are often more expansive, encompassing gender, sexual orientation, socio-economic status, nationality, (dis)ability, and other categories by which individuals are marginalized. However, given the complexity of our mission to increase diversity among faculty and administrators, a scarcity of data in some categories, and the limitations of time, we have chosen to focus primarily on addressing underrepresented racial and ethnic minority groups” (Munday et al. 2014).

One factor that may be contributing to this “scarcity of data in some categories” is the overall complexity of LGBTQ scholarship. Concepts of gender identity and gender expression have been addressed less frequently than sexual orientation in institutional policy making. However, scholarship involving the topics of gender expression and identity in higher education

is growing, and this research is critical in informing the development of responsive policies and programs that promote LGBTQ inclusion (Woodford, Joslin, and Renn, 2016).

### **Employment Non-Discrimination Act and Institutional Non-Discrimination Policies**

In 2013, the Employment Non-Discrimination Act was introduced into Congress. This legislation would provide employment and workplace protections to lesbian, gay, bisexual, and transgender workers—meaning that employers could not discriminate against LGBTQ applicants or employees simply on the basis of their sexual orientation or gender identity (American Civil Liberties Union, 2021). This bill was introduced every year from 2013 to 2020 before finally being passed as the Equality Act in February 2021 (Smith, 2021).

Prior to the passing of the Equality Act (2021) and in response to a lack of federal protections for LGBTQ employees, many institutions of higher education began to write clauses into their nondiscrimination statements increasing protections to the LGBTQ community (Campus Pride, 2021). However, the existence of these nondiscrimination policies did not necessarily engender feelings of security in faculty and staff members who are members of the LGBTQ community, particularly those who identify as transgender or non-binary. In a large scale, national study, the *State of Higher Education for Lesbian, Gay, Bisexual, and Transgender People* (Rankin et al., 2010), research findings supported the conclusion that transgender and non-binary individuals were “more at risk for harassment on college campuses than their cisgender peers” (Rankin et al., 2010, p. 14). This study also showed that transgender faculty perceived their work environment as being less welcoming and hospitable than it was for their cisgender colleagues (2010). Additional research has resulted in similar findings. For example, two additional qualitative studies (Seelman et al., 2012) (Rankin, 2003) demonstrated that transgender and nonbinary higher education employees felt unsupported and unwelcome in their

institutions, regularly experiencing microaggressions such as misrecognition, misgendering, mispronouncing, and tokenism. The participants cited these experiences as contributors to their perceptions of a hostile work environment.

In June 2018, the Human Rights Campaign found in a report, *A Workplace Divided: Understanding the Climate for LGBTQ Workers Nationwide* (2018), that 54 percent of employees are out at work—an increase of just 5 percentage points from 2009 (Human Rights Campaign, 2018). Anthony Kreis, a professor at IIT Chicago-Kent School of Law, explains that the freedom to be out that some trans workers experience contributes to the impression that their experience represents the totality of LGBTQ people's experience, obscuring the stories of those who lack that same freedom. As stated by one writer, "It's surprising how deep the fears run in employees. Even in 2018." (Bushey, 2018).

#### **Title VII of the Civil Rights Act of 1964**

Three major cases involving LGBTQ workers' rights were decided in 2020 by the U.S. Supreme Court. In each case, the outcome depended on whether Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex and national origin, extended protections based on sexual orientation or gender identity. In one of the cases, a transgender woman, Aimee Stephens, was fired when her employer learned of her impending gender transition surgery. In 2014, the ACLU of Michigan and Equal Employment Opportunity Commission filed a suit on the behalf of Aimee Stephens when she was dismissed from her job as a funeral director as a result of her disclosure of her transgender identity to her employer. In 2016, a federal district court ruled in favor of the funeral home, concluding that the prohibition of employment discrimination on the basis of sex under Title VII did not apply to gender identity. The EEOC issued an appeal on behalf of Ms. Stephens and in 2018, a federal

appeals court reversed the lower court's decision, ruling that the protections under Title VII did, in fact, apply to transgender individuals. In response, the funeral home again appealed the decision to the U.S. Supreme Court (American Civil Liberties Union, 2020).

At this point, the case garnered the attention of the Trump administration, which filed a brief (2019) siding with the employer. This was not the first case in which the Trump administration issued a brief clarifying its position on Title VII as not covering gender identity. In two other cases, involving defendants Gerald Bostock and Donald Zarda, gay men who were fired from their jobs as a result of their sexual orientation, the Trump administration made clear its opposition to applying Title VII discrimination protections on the basis of sexual orientation (Sopelsa & Moreau, 2019).

In the three cases of *Bostock v. Clayton County* (2020), *Altitude Express, Inc v. Zarda* (2020), and *R.G. & G.R. Harris Funeral Homes Inc. vs. Equal Employment Opportunity Commission* (2020), the U.S. Supreme Court ruled 6-3 that Title VII protects employees against discrimination based on sexual orientation. On June 15, 2020, the court ruled in a 6-3 decision covering all three cases that discrimination “because of sex”, as prohibited by Title VII, covers sexual orientation and gender identity. Justice Neil Gorsuch stated in his majority opinion that “an employer who fired an individual for being homosexual or transgender fired that person for traits that or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids” (*Bostock v. Clayton Co.*, 2020 p. 1737).

### **Continuing Challenges**

This rulings in these three U.S. Supreme Court cases applying Title VII to workplace discrimination based on sexual orientation and gender identity was understandably viewed as a

landmark legal victory by proponents of LGBTQ rights. However, many legal scholars have expressed the need for caution, pointing out that the Supreme Court did not define the term “transgender” in the ruling, leaving the issue of which individuals are actually covered in the ruling open to interpretation by individual courts (McGinley, 2020). Mercer University law professor, Pamela Wilkins, wrote that the Court’s decision only uses examples in which someone identifies as male or female, and does not necessarily protect someone who is non-binary and may identify as something other than exclusively male or female (2020).

Beyond questions over interpretation of the Court’s application of Title VII to transgender individuals, there are other reasons to be wary of the power of Title VII to prevent discrimination in employment settings. One might understandably assume that discrimination on the basis of sexual orientation or gender identity will now decrease sharply. However, as Jennifer Isaacs (2019), an attorney who specializes in federal employment litigation explains, this type of discrimination occurs quite regularly and is both difficult to prove and difficult to fight.

According to Isaacs (2019), the most common ways of proving harassment under Title VII are *disparate treatment discrimination* and *harassment* (Isaacs, 2019). For both types of claims, the employee must be of a protected class, which is not as difficult to prove given the recent legal decisions from the Supreme Court covered previously. However, the discriminator must be aware that the employee is a member of a protected class, which is slightly more difficult to prove, especially if the employee is closeted. In the case of disparate treatment, the employee must prove an act of harm occurred, such as suspension, being fired, denied a promotion or a bonus, and that this harm was on account of a person’s membership within a protected class. In the case of harassment, the employee must demonstrate that they were subjected to acts that had a detrimental effect on their ability to perform their job duties. Proof of such harassment can be

shown by either a pattern of harassment or one severe incident, but as noted, it must be proven that the discrimination occurred as a result of the employee's membership within a protected class (Isaacs, 2019).

It is worth noting that not all types of discrimination experienced by transgender and non-binary individuals on college campuses amount to illegality. As one researcher explains, "what we do know is that gender non-conforming people often experience multiple forms of marginalization and interpersonal victimization, whether occurring at a micro, mezzo, or macro level on campus" (Seelman, 2014, p. 620). Many aspects of standard practices of modern educational institutions can contribute to creating an unwelcome environment to gender-nonconforming students, faculty, and staff, such as documents, forms, and applications that do not recognize fluid or non-binary identities, the lack of gender-inclusive facilities or housing, or a lack of knowledge on behalf of cisgender faculty and staff on how to support non-binary or transgender students and colleagues (Seelman, 2014). Though most institutions now include *gender identity* or *gender expression* into their non-discrimination policies, these statements are sometimes being used as a substitute for actual institutional action on diversity (Ahmed, 2012). Non-discrimination policies are only one dimension of creating welcoming environments for gender non-conforming people, especially if intolerant belief systems or non-inclusive policies and procedures persist.

Diversity and inclusion have climbed corporate agendas over the past decade and the Supreme Court's decision in *Bostock v. Clayton County* solidified protections for LGBTQ employees under Title VII. However, a recent study by Bailensen et al. (2020) has provided evidence that many LGBTQ employees continue to face discrimination, discomfort, and even danger in the workplace. This research indicates that when it comes to true inclusion, everyday

interactions with peers and leaders matter as much as organizational policies or formal processes (2020).

In this study (2020), 2000 employees, both LGBTQ and non-LGBTQ, in various types of organizations were surveyed. In addition to these surveys, focus groups and individual interviews were conducted with members of The Alliance, a global network of LGBTQ leaders in public, private, and social sector organizations. Data gathered provided insight into the everyday experiences of LGBTQ employees, both closeted and otherwise.

One aspect of workplace experiences described by many participants as being difficult involved coming out in the workplace (Bailensen et al., 2020). Responses indicated that coming out is especially difficult for junior employees as they often fear reprisal such as an inability to advance. On average, one in five respondents reported that they remain closeted at work. Another revelation was that women were less likely than men to be representing themselves authentically, the reason being that already existing gender discrimination left many reluctant to add another reason to experience discrimination. Others described the frustration of having to come out repeatedly, as they are regularly asked questions about their personal lives, families, or romantic partners that forced them to clarify their identities again and again.

Many participants described being passed over for promotion because of their identities, and the authors of the study (Bailensen et al., 2020) pointed out the trans and non-binary individuals were far more likely than cisgender people to be in entry level positions. Many non-binary respondents discussed the lack of a bathroom in which they were comfortable, as they felt safe in neither the men's nor women's bathrooms. More than half of those surveyed reported experiencing microaggressions regularly at work, such as hearing disparaging remarks about themselves or people like them. One closeted individual reported sitting through a senior

partner's comedy routine at a company function, in which this partner made several homophobic jokes, thus reinforcing the participant's feelings that they could not safely come out at work (Bailensen et al., 2020).

These types of experiences seem commonplace despite the existence of non-discrimination policies and despite the existence of a federal statute that now clearly prohibits discrimination against LGBTQ individuals in their places of employment. Data indicates that many who are experiencing discrimination do not feel that they are in a position to complain or fight against such ill-treatment (Human Rights Campaign, 2014). This information would indicate that existing measures put in place to prevent discrimination are insufficient in protecting many members of our country's workforce, simply on account of their identities.

### **Problem of Practice**

This exploratory qualitative study will examine the perceptions of non-binary and transgender benefitted staff at selected higher education institutions regarding the efficacy of non-discrimination policies in affording protection in the workplace.

### **Statement of Positionality**

Positionality is defined as "the social and political context that creates your identity in terms of race, class, gender, sexuality, and ability status" (Positionality, 2021). In a 1988 article, philosopher Linda Alcoff applied the term to the topic of gender and sexuality, arguing that one's position as a woman, queer person, straight person, etc., isn't inherent to us but rather it is created by social and political forces that are constantly changing. Judith Butler (2006) expanded upon this idea in her book, *Gender Trouble*, theorizing that one's identity in terms of race, class, gender, sexuality, and ability status, is created by social and political forces. She explains that the gender presentation of all individuals has been unconsciously influenced by these ever-present

but unseen cultural, social, and political forces, referring to this phenomenon as *performativity* (2006).

My purpose in this study is not to discover the origins of gender expression or whether gender identity is merely a socially created phenomenon or a naturally occurring biological function. However, from my own experience, I do feel qualified to speak on the matter of choice. Several of my earliest memories involve my own discomfort of things such as the clothing in which my mother dressed me or the hairstyle that she chose for me. As early as age four, I had a marked preference for what was considered to be masculine clothing. The moment I was able to choose my own wardrobe, I wore clothes marketed for boys. At age 5, my mother had my hair cut short to make it more manageable, as it was very thick and prone to tangling. I was so enamored with the look that I insisted it remain short for years to come. At no point can I remember making a conscious decision that I wanted to look *like a boy*. Yet, the reality was that in my own consciousness, the label of “girl” felt inherently wrong.

I was fortunate in having parents who were tolerant of my preferences. Most people assumed I was a boy on sight, which did appear to make my mother uncomfortable. I was not discomforted by the fact that they assumed I was male; in fact, I felt validated. However, the awareness that others were uncomfortable was something I could never escape, and this awareness has been one of the defining realities of my life. As Susan Stryker explains in *Transgender History* (2017), “people have great difficulty recognizing the humanity of another person if they cannot recognize that person’s gender, and encounters with gender-challenging people can feel like an encounter with monstrous or frightening unhumanness.” A young child is not necessarily able to articulate how it feels to be considered *alien* by those who encounter them, especially when that child may not completely understand why or how they are

engendering such feelings in another person. Yet, I feel that can speak with authority based on my own experience that this awareness exists. Humans are instinctively capable of sensing the discomfort of others, a phenomenon referred to in science as *cognitive empathy* (Reiss, 2017).

In entering adolescence, I entered a strange intersectionality, being both attracted to young men and desperately trying to emulate them, which was becoming more difficult with the onset of puberty. I was keenly aware that I was not the type of girl boys seemed to find attractive. I worried that I was not feminine enough to be noticed while simultaneously experiencing dysphoria about the physical changes my body was undergoing. It was at this age that I began to make a concerted effort to find a sort of middle ground... to be masculine but not too masculine, seeking to be physically attractive to young men without being too feminine. It is worth noting that this personal battle was being fought entirely within my own consciousness. I did not voice these concerns to anyone.

This intersectionality has followed me throughout my professional life as well. My experience in the workplace has involved walking a tight line between ensuring my own comfort while ensuring others are comfortable working with me. I operate in a sort of stealth mode, keeping much of my identity hidden, never sure if others would judge my intelligence, capabilities, or professionalism if I were to reveal myself to be non-binary. My insecurity at representing myself authentically is not unwarranted. I have every indication that this revelation would not be welcomed. I regularly find myself attempting to explain the differences among sex, gender, and gender identity to unreceptive listeners. These conversations usually arise after some type of microaggression has occurred, some sort of exchange among colleagues or students that may or may not have been directed at me personally but indicates an intolerance or a feeling of hostility toward transgender, non-binary, or LGBTQ people in general. These conversations

ensure a continued awareness that a power imbalance exists. There is what is considered normal and what is considered abnormal, and those who are considered abnormal are at the mercy of those who make decisions about what is acceptable and what is not.

It is necessary to state that I live in Mississippi and have my entire life. Prior to June 2020, at which time the U.S. Supreme Court ruled that Title VII extended protections to transgender people, there was no law protecting the rights (employment or otherwise) of transgender or gender non-conforming people in Mississippi. As of February 2021, the Mississippi legislature has shown their intent to restrict the freedoms of trans or non-conforming individuals in this state, with the passing of Senate Bill 2536, which will ban transgender athletes from competing on women's sports teams in the state's high schools and universities. The Mississippi government shows every likelihood of continuing to produce legislation that is discriminatory against trans people. Mississippi governor Tate Reeves stated upon the passing of the bill, "I just don't understand why politicians are pushing children into transgenderism in the first place, and my heart breaks for the young women across America who will lose in this radical social experiment" (Holcombe, 2021, para 10).

Mississippi's Senate Bill 2536 passed with ease, 34-9 in a late-night session. There is every indication that any anti-trans legislation put forward in Mississippi would pass just as easily. Another bill introduced in the Mississippi legislature would attempt to prevent anyone from receiving transition-related healthcare if they are under the age of 21. That would restrict trans people from accessing potentially life-altering treatment, potentially longer than they are restricted from voting, consuming alcohol, or marriage (Holmes, 2021).

Legislation such as Senate Bill 2536 and the proposed bill that would prevent transition-

related healthcare to Mississippians under the age of 21 pass without any real opposition because anti-trans sentiment dominates public opinion. A 2019 survey was conducted by the Transgender Law Center and Southerners on New Ground of trans and gender-nonconforming people in 13 southern states, including Mississippi (Ring, 2019). In this survey, 47 percent of respondents reported experiencing harassment, discrimination, verbal, and physical violence from strangers. The number rose to 58% for trans women and those who identified as femmes. Forty-one percent reported experiencing these types of violence from law enforcement, and for participants of color, the number was 52%. Forty percent reported experiencing this behavior from health care providers (Ring, 2019).

I recognize that my life experience as a non-binary individual in a conservative southern state may have influenced my judgement as to what other trans and non-binary people experience in their own lives. I know that I have assumptions and opinions that have been colored by having lived and worked primarily in an environment where others were intolerant or judgmental of my inclinations and preferences. I therefore understand that, in conducting this study, I may discover that my experiences are unique and that others have not have similar stories to tell that may or may not be similar to my own. I am prepared to confront and manage my own biases as to how this study will progress and resolve.

### **Carnegie Project on the Education Doctorate (CPED) Principles**

The University of Mississippi is a member of the Carnegie Project on the Educational Doctorate (CPED) consortium. The Doctor of Education in Higher Education at the University of Mississippi is therefore structured upon the guiding principles of the CPED program design: ethics, equity, and social justice. These same principles form the foundation of this study, which has been framed with the intention of exploring the complex issues facing members of the

transgender and non-binary population, particularly those of transgender and non-binary employees in higher education.

Data show that transgender and non-conforming individuals continue to face discrimination in employment. The National Center for Transgender Equality explains that “more than one in four transgender people have lost a job due to bias, and more than three-fourths have experienced some form of workplace discrimination. Refusal to hire, privacy violations, harassment, and even physical and sexual violence on the job are common occurrences and are experienced at even higher rates by transgender people of color” (*National Center for Transgender Equality*, 2021).

Diversity research in higher education, as stated previously, has historically focused on issues of race and ethnicity. Whereas scholarship on diversity in education has become increasingly inclusive of LGBTQ concerns, institutional policy makers are lagging behind in adapting current trends, practices, and procedures to be inclusive of members of this population. This inability to adapt does not exist solely on an institutional level, as it seems to extend to organizations responsible for shaping educational policy. For example, the American Council on Education (ACE) is an organization that is committed to shaping effective public policy and fostering innovative, high-quality practices in the higher education community. On the organization’s website, ACE asserts that “Education within a diverse setting prepares students to become good citizens in an increasingly complex, pluralistic society; it fosters mutual respect and teamwork; and it helps build communities whose members are judged by the quality of their character and their contributions” (*American Council on Education*, 2021). However, in their statement on the importance of diversity in education, ACE makes no specific mention of the LGBTQ population. What the organization does state is that “the public is entitled to know why

these institutions believe so strongly that racial and ethnic diversity should be one factor among the many considered in admissions”. This is as far as the organization goes in explaining exactly what they mean when they use the term *diversity*.

Despite recent advancements in U.S. nondiscrimination laws regarding protections for the LGBTQ population, current trends in higher education policy remain neglectful in acknowledging the rights of gender non-conforming employees. This study aims to discover the impact of ongoing antitransgender sentiment in American society on transgender and non-binary employees in higher education, and to judge whether institutions can rightly claim to be promoting diversity while ignoring the needs of a significant percentage of the country’s educational staff and faculty.

### **Conceptual Framework**

The concept of educating for citizenship is one that has existed for centuries. Concerns that young people are unprepared for current conditions of both work and community are cyclical, and can be traced through history from ancient Greece, through the Middle Ages, to the late Victorian period (Bentley, 1998). Historically, the burden of ensuring that young people develop the values, skills, and understanding relating to active citizenship has fallen to institutions of learning (Turnbull & Muir, 2001).

The recognition that a diverse classroom contributes to the development of well-rounded citizenry is more novel. It was only 66 years ago that the ruling in *Brown vs. Board of Education* (1954) made it illegal to segregate public schools on the basis of race. Not until 1972 was there a law guaranteeing the right to education free from sex discrimination, with the enactment of Title IX. Even these rulings did not extend protections to members of the LGBTQ population. As recently as January 2021 the U.S. Department of Education stated in a memorandum (United

States Department of Education, 2021) that LGBTQ students are not expressly included in protections under Title IX. However, President Biden issued an executive order in March 2021 addressing this exclusion. The order guarantees that educational environments must be free from discrimination on the basis of sex, sexual orientation, and gender identity (House, 2021)

This study aims to discover the ways in which transgender or non-binary people are impacted by discriminatory practices or incidents in their places of employment. It is important, therefore, to frame this study in terms of the importance of inclusion and diversity for civic engagement in a democratic society, and how the alienation of any particular group can only weaken the society as a whole. As a framework, this study will employ the work and philosophies of scholars in the fields of educational, queer, and feminist theory; David Labaree and Susan Stryker, utilizing Labaree's theory of the competing goals of education and Stryker's work in linking transgender issues to wider movements for social change, such as sexuality, feminism, and race.

### **The Competing Goals of Education**

Firstly, this framework will examine David Labaree's views regarding the three alternative goals of American education: democratic equality, social efficacy, and social mobility. In his article, *Public goods, private goods: The American struggle over educational goals* (1997), Labaree explains that these three goals exhibit the competing educational interests of the citizen, the taxpayer, and the consumer, and are therefore the root of continuous conflict within the American education system. The crux of the argument is whether education should focus primarily on preparing citizens, training workers, or facilitating an individual's social advancement. Labaree (1997) poses the question, "Should schools present themselves as a model of our best hopes for our society and a mechanism for remaking that society in the image of

those hopes? Should schools focus on adapting students to the needs of society as currently constructed? Or should they focus primarily on serving the individual hopes and ambitions of their students?" (Labaree, 1997, p. 41).

The social efficiency approach argues that our entire society must invest in the education of all citizens in order to ensure maximum productivity of our workforce. It is focused on providing a competitive advantage to individual students as they vie for social positions. The democratic equality model argues that schools must promote political competence and citizenship training for all students in order for our society to function effectively. It is this goal that is most relevant to the purposes of this study, as its motivation is to provide equal educational experiences to all people regardless of race, ethnicity, and sex (1997).

Those who advocate that democratic equality should be the primary focus of education espouse the pursuit of citizenship training, equal treatment, and equal access. Labaree (1997) shares a quote from the national report *A Nation at Risk*, which stresses that "a high level of shared education is essential to a free, democratic society and to the fostering of a common culture" (Labaree, 1997, p.44.). He points out that the rationale for including the liberal arts curriculum was to ensure that all Americans were familiar with the nation's culture and governmental functions in order to fully participate in the political process.

The goal of equal treatment arose from the growth of capitalism and immigration. Initially the movement was concerned with how economic disparities amongst the classes prevented the universal education of all members of society. Over time, these concerns have encompassed other groups, particularly ethnic minorities and women (Labaree, 1997).

The third concern of the goal of democratic equality in schools is that of equal access. The concept of equal access affirms that every American should have an equal opportunity to acquire

an education at any educational level. Prior to World War II, this movement was concerned with providing an elementary and secondary education to all children. Only after the war did higher education become the focus of the demand for equal access (1997). Using Labaree's concept of the competing goals of education as a framework for this study establishes a foundation for the argument that equal treatment and equal access must be extended to the transgender population. Treating these individuals as equal members of society is vital to our democratic process.

### **This Century's Second-Class Citizens**

Research supports the position that democracy and gender equality form a mutually reinforcing relationship and that equality for all is a fundamental principle of a liberal democracy (Piccone, 2017). In a speech entitled "No Second Class Citizens" (1947), W.E.B. Du Bois posed the question, "can we envision and do we want a democracy where the rights of all citizens are equal?" (Du Bois, 1947, p.17). The second-class citizens Du Bois referred to were black Americans, the speech pointing out the contradictions of a democracy that allowed for unequal rights of a population based on the color of their skin. Of course, another population of Americans are accustomed to this second-class status. Women have been fighting for equality in various forms for centuries, though the first organized movement of what is referred to as feminism began in the nineteenth century, with women fighting for the right to vote. Movements have continued throughout the 20<sup>th</sup> and 21<sup>st</sup> centuries, shifting focus every few decades from educational equality to gender wage gaps and violence against women (Burkett, 1998).

Yet one demographic is currently experiencing an unprecedented level of opposition to their rights and freedoms. Hundreds of bills targeting transgender Americans have been introduced in recent months and years. Alphonso David, president of the Human Rights Campaign, pointed out that the bills are an "attempt to erase transgender people and attempt to

make LGBTQ people second-class citizens.” (Yurcaba, 2021, para. 2). Thirteen anti-trans bills have been passed by conservative lawmakers in the United States in 2021, and more than 110 bills have been proposed in 2021— by far the largest number in US history (Levin, 2021).

Dr. Susan Stryker (Stryker, 2020) has been one of the most prominent voices in transgender studies in recent decades. Her extensive body of work has helped shape the cultural conversation on transgender issues and is vital in understanding how transgender history is linked to the broader history of minority movements for social change in the United States. In her book, *Transgender History: The Roots of Today’s Revolution* (Stryker, 2017), Stryker illustrates how transgender social change activism parallels feminist movements of the 20<sup>th</sup> century. Her goal has been to prompt a closer look at what constitutes gender-based oppression and she does so through a feminist lens.

Stryker (2017) is a member of a growing body of scholars who are prompting a change in perspective on gender identity. Previous literature suggests that transgenderism originates from a place of individual psychological deviation from what was considered socially acceptable or healthy. While such literature has often been written from a medical or psychological perspective, Stryker’s research is unique in that she examines transgenderism from a cultural and social frame of reference (2017).

Stryker (2017) suggests the need for a reconciliation between transgender and feminist politics, what she refers to as “transfeminism” (2017). Doing so would require one to acknowledge how we each experience our gendered sense of self, and that how our sense of being male or female is very personal and intertwined with every aspect of our lives. Intersectional feminism, Stryker (2017) explains, is useful in understanding the parallels between transgender and feminist politics in that it challenges the idea that the social oppression of

women can be completely encompassed with the category “women.” “To understand the oppression of any particular woman or group of women requires taking into account all the things that intersect with their being women- race, class, nationality, religion, disability, sexuality, citizenship status, and other things that marginalize or privilege them- including having trans or gender non-conforming identities” (2017). This “trans positive feminism” (2017) seeks to dismantle the structures that enable gender hierarchy as a system of oppression, doing so while acknowledging that oppression often occurs based on an individual changing gender or contesting gender categories (2017).

Ultimately, Stryker’s work provides evidence that the systematic oppression of citizens based on their gender identity is unjustifiable, despite the fact that violence, law, and custom hold existing social hierarchies in place. She explains that laws and policies are being created as a result of visceral reactions to what is perceived as “inhuman” as many individuals fail to recognize the humanity of a person when they cannot perceive their gender. Their gut reaction may be panic, disgust, hate, contempt, outrage- leading to these individuals being shunned socially and denied basic needs and rights, such as housing and employment (2017).

### **Systematic Discrimination and the Weakening of Democracy**

Using Labaree’s concept of the competing goals of education and Stryker’s historical research as a framework for this study establishes a foundation for the argument that equal treatment and equal access must be extended to the transgender population. The study has a focus on employees working in higher education. Treating these individuals as equal members of society is vital to our democratic process. Using Labaree’s arguments as a starting point, this study seeks to extend Labaree’s consideration of inclusion, access, and equal treatment of students to other facets of American life, such as employment. Stryker’s work gives evidence

that the current political climate in the United States and the ongoing anti-trans lobbying of conservative lawmakers is indicative of the ongoing negative and discriminatory effects of institutionalized heteronormativity in American society. Following her foundation of a feminist framework, this study will examine the ways in which the marginalization of transgender or non-binary people are not only impacting their lives but weakening our country's claims of a democratic system of government.

### **Research Questions**

This exploratory qualitative study will explore the perceptions of non-binary and transgender benefitted staff at selected higher education institutions with non-discrimination policies regarding the efficacy of those policies in affording protection in the workplace. The following research questions will guide my efforts to understand the perceptions of transgender and non-binary higher education employees about if and how the existence of non-discrimination policies at their institutions afford them feelings of security and protection in their positions.

1. How does gender identity influence workplace experiences for transgender and non-binary professionals in higher education?
2. How do participants perceive the efficacy or not of institutional policies related to equity and non-discrimination, including ones that specifically encompass transgender and non-binary professionals?
3. How have negative experiences and discrimination against transgender and non-binary professionals shaped their gender identity?

### **Methodology**

Qualitative methods are employed to describe and understand actual instances of human action and experience from the perspective of the participants who are living through a particular

situation (Fischer, 2006). Because this study will focus on the *perceptions* of transgender and non-binary higher education employees of their experiences working in higher education, the use of qualitative inquiry in this research is justified. Qualitative research does not rely on numerical data because the meaning people have constructed about their world and how they make sense of their experiences cannot effectively be quantified (Pathak, Jena, & Kalra, 2013).

### **Setting and Data Sources**

The participants in this study are faculty and staff employed at four-year institutions in the southeastern United States who self-identify as having non-conforming gender identities. They are full time employees of four-year public institutions, both tenured and untenured.

### **Data Collection**

The data regarding their perceptions will be obtained through semi-structured interviews conducted via videoconferencing (Zoom). Interviews will be recorded and transcribed.

### **Data Analysis**

Once the interviews are completed, the audio from each will be transcribed and reviewed for themes and commonalities, as well as for differences that may represent an outlier regarding any participant's experience.

### **IRB and Ethical Considerations**

IRB and ethical considerations will be addressed in accordance with the requirements of the doctoral institution at which the author is a student. IRB approval will be obtained (and provided as soon as it is obtained). Individuals who are invited to participate on the study will be required to complete and sign consent forms in order to participate and the author will make every effort to anonymize participants' identities.

## Summary

The student population of American colleges and universities is becoming increasingly diverse. Most higher education institutions have initiatives in place that are focused on increasing diversity among faculty and staff as well. Though the racial and ethnic makeup of a campus population has been given the most attention in diversity and inclusion efforts, there has been an increasing focus on LGBTQ issues in recent decades. This growing scholarship is critical in informing the development of responsive policies and programs that work to promote LGBTQ inclusion amongst faculty, staff, and students.

Prior to the Supreme Court ruling in *Bostock v. Clayton County* in June 2020, there were no federal employment protections for transgender and non-binary Americans based on their gender identity. This landmark decision provided that discrimination on the basis of sex or gender identity is prohibited under Title VII of the Civil Rights Act of 1964. Many higher education institutions had already added *gender identity* as a protected trait in their institutional non-discrimination policies. In the wake of this ruling, colleges and universities that had not added this language did so.

However, the current socio-political climate in the United States is becoming increasingly antagonistic toward gender non-conforming people. The number of anti-LGBTQ bills filed in legislatures across the country has skyrocketed from 41 bills in 2018 to 238 bills in the first three months of 2022 (Laviertes & Ramos, 2022). With gender identity being such a socially and politically divisive issue, many transgender and non-binary people feel unsafe and unsupported in all aspects of their daily lives, including at work (Baboolall et al., 2022). Though non-discrimination policies that cite *gender identity* as a protected trait go some way toward alleviating discomfort, microaggressions and other forms of discrimination for gender non-

conforming people on college campuses, they represent only one dimension of creating welcoming environments for gender non-conforming people, especially if intolerant belief systems or non-inclusive policies and procedures persist.

This exploratory qualitative study will examine the perceptions of non-binary and transgender benefitted staff at selected higher education institutions regarding the efficacy of non-discrimination policies in affording protection in the workplace. In this manuscript, the problem of practice is introduced as well as the author's positionality statement and reasons for taking on this research. The connection between this dissertation and the principles of the Carnegie Project on the Education Doctorate (CPED) are explained. The conceptual framework that will provide a foundation for the study is discussed and the planned methodology is outlined.

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**Manuscript 2: Do Policies Matter? An Exploratory, Qualitative Study of the Lived Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

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February 2022

## **Manuscript 2: Do Policies Matter? An Exploratory, Qualitative Study of the Lived Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

### **Introduction**

Diversity is more than a word, more than an ideal and more than the attainment of a particular quantifiable goal. Diversity is the realization of difference and of inequity and understanding of power and privilege. It is balanced by inclusion, the desire to create equal opportunity and further, realize that a diverse community is stronger, richer and more sustainable than one which actively, or passively, excludes people who are different. Diversity and inclusion create excellence (*Diversity, Equity and Inclusion Glossary*, n.d.)

This statement was included in the University of Washington's *Diversity, Equity, and Inclusion Glossary* and is reflective of the type of language being used in higher education institutions to indicate a commitment to creating a welcoming environment for people of various backgrounds on campus. The promotion of diversity, equity, and inclusion has become an increasing concern to college administrations. The University of Washington's statement, for example, was among the top ten of 129,000,000 results of a general Google query including the terms *definition, diversity equity and inclusion*, and *university*. As of July 2021, DEI staff made up an average 3.4 positions for every 100 tenured faculty in higher education institutions throughout the United States. (Greene, 2021).

However, data from a study examining results of campus climate surveys indicated that "large DEI bureaucracies appear to make little positive contribution to campus climate. Rather

than being an effective tool for welcoming students from different backgrounds, DEI personnel may be better understood as a signal of adherence to ideological, political, and activist goals” (Greene, 2021, para. 37).

The purpose of this qualitative exploratory study is to determine the impact gender identity inclusive policies have had on the perceptions of transgender and non-binary higher education employees of their sense of safety and belonging on campus. Sociologist Derek Siegel explains that colleges “rarely acknowledge the emotional impact of navigating transphobic environments and how it can divert attention away from work and other responsibilities. Nor do colleges and universities provide trans students and faculty members with the resources to cope with such distress” (Siegel, 2019, p.7). Whether these policies are enough to combat the systematic transphobia experienced by gender non-conforming people in their daily lives, both on campus and off, is a question considered in this Dissertation in Practice.

### **Problem of Practice**

This exploratory qualitative study examines the perceptions of non-binary and transgender benefitted staff at selected higher education institutions regarding the efficacy of non-discrimination policies in affording protection in the workplace.

### **Statement of Positionality**

My experience of growing up as a gender non-conforming child in the conservative southern United States and the awareness of the discomfort that my non-conformity caused in others has left me uniquely positioned to speak on the realities of the intolerance people such as myself face in their every-day lives, including at work. The discrimination that I faced in my youth created in me a feeling of otherness that has followed me into my adult and professional life.

Though federal protections are now in place preventing transgender and non-binary individuals from being fired on account of their gender identity, see Manuscript 1 for further consideration of these legal protections, a spate of anti-transgender legislation is progressing through state governments across the country, making it difficult for gender non-conforming people to find a sense of security in their employment. With this study I aim to discover the extent to which transgender and non-binary individuals are experiencing issues in the workplace as a result of their gender identity.

### **Context of the Problem**

2021 was labeled the “worst year for anti-LGBTQ legislation in recent history” (HRC, 2021, para.1). There is no sign anti-transgender bill proposals are slowing. Lawmakers in seven states proposed laws that would limit the rights of transgender and non-binary people in the first week of 2022. Recent data from the Trevor Project indicates that currently proposed state laws targeting the rights and liberties of transgender Americans are negatively impacting their mental health. Eighty five percent of transgender and non-binary people surveyed reported that this was the case (Trevor News, 2022). Higher education institution administrators must be prepared to take necessary steps to challenge systematic transphobia on their campuses. It will require more than simply placing gender affirming language in non-discrimination policies on websites and in handbooks. It will require the active participation of all members of a college community, including administration, faculty, staff, and students.

### **Carnegie Project on the Education Doctorate (CPED) Principles**

The principles guiding the Carnegie Project on the Educational Doctorate are ethics, equity, and social justice. Given the prevalence of discriminatory legislation being considered or passes in states across the United States as well as data indicating that gender non-conforming

individuals continue to face discrimination in employment demonstrates the relevance of this topic to these principles (Sears et al, 2021). It is readily apparent that strong anti-transgender sentiment is preventing the application of these principles in the lives of gender non-conforming Americans on our college campuses. The purpose of this study is to bring awareness to the difficulties being faced by transgender and non-binary Americans despite recent advancements in federal antidiscrimination laws.

### **Conceptual Framework**

This study aims to illustrate the importance of inclusion and diversity for civic engagement in a democratic society, and how the alienation of any particular group can only weaken the society as a whole. Therefore, as a framework, this study employs the work of David Labaree and Susan Stryker. The work of both individuals is considered in Manuscript 1. In Labaree's (1997) article, *Public Goods, Private Goods: The American Struggle Over Educational Goals* (1997), he espouses that the purpose of education is to promote democratic equality in our society, and to do so, equal treatment and equal access must be extended to all people. Therefore, treating transgender and non-binary people as equal members of society is vital to our democratic process.

Stryker's research demonstrates that the systematic oppression of citizens on account of their gender identity is unjustifiable in a democratic society. Stryker theorizes that ongoing discrimination against transgender and non-binary people is a result of the perception that gender non-conforming people are somehow less than human. Those who are treated as if they are inhuman cannot be considered to be equal members of society. Employing the research of Labaree and Stryker demonstrates that treating transgender and non-binary Americans as equal members of society with equal rights is vital to American democracy.

## Research Questions

This exploratory qualitative study examines the perceptions of non-binary and transgender benefitted staff at selected higher education institutions with non-discrimination policies regarding the efficacy of those policies in affording protection in the workplace. The following research questions guided my efforts to understand the perceptions of transgender and non-binary higher education employees about if and how the existence of non-discrimination policies at their institutions afford them feelings of security and protection in their positions.

1. How does gender identity influence workplace experiences for transgender and non-binary professionals in higher education?
2. How do participants perceive the efficacy or not of institutional policies related to equity and non-discrimination, including ones that specifically encompass transgender and non-binary professionals?
3. How have negative experiences and discrimination against transgender and non-binary professionals shaped their gender expression?

## Terms

*Cisgender*: A term used to describe a person whose gender identity aligns with those typically associated with the sex assigned to them at birth (*Glossary of Terms*, n.d.)

*Cisnormativity*: The assumption that everyone is cisgender and that being cisgender is superior to all other genders. This includes the often implicitly held idea that being cisgender is the norm and that other genders are “different” or “abnormal.” (*PFLAG National Glossary of Terms*, 2021)

*Gender binary:* A system in which gender is constructed into two strict categories of male or female. Gender identity is expected to align with the sex assigned at birth and gender expressions and roles fit traditional expectations (*Glossary of Terms*, n.d.)

*Gender expression:* External appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine (*Glossary of Terms*, n.d.)

*Gender fluid:* A person who does not identify with a single fixed gender or has a fluid or unfixed gender identity (*Glossary of Terms*, n.d.)

*Gender identity:* One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth (*Glossary of Terms*, n.d.)

*Gender Non-Conforming:* A broad term referring to people who do not behave in a way that conforms to the traditional expectations of their gender, or whose gender expression does not fit neatly into a category. While many also identify as transgender, not all gender non-conforming people do (*Glossary of Terms*, n.d.)

*Genderqueer:* Genderqueer people typically reject notions of static categories of gender and embrace a fluidity of gender identity and often, though not always, sexual orientation. People who identify as "genderqueer" may see themselves as being both male and female, neither male nor female or as falling completely outside these categories (*Glossary of Terms*, n.d.)

*LGBTQ:* An acronym for “lesbian, gay, bisexual, transgender and queer” with a "+" sign to recognize the limitless sexual orientations and gender identities used by members of our community (*Glossary of Terms*, n.d.)

*Non-Binary*: An adjective describing a person who does not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all non-binary people do. Non-binary can also be used as an umbrella term encompassing identities such as agender, bigender, genderqueer or gender-fluid (*Glossary of Terms*, n.d.)

*Queer*: A term people often use to express a spectrum of identities and orientations that are counter to the mainstream. Queer is often used as a catch-all to include many people, including those who do not identify as exclusively straight and/or folks who have non-binary or gender-expansive identities. This term was previously used as a slur, but has been reclaimed by many parts of the LGBTQ movement (*Glossary of Terms*, n.d.)

*Transgender*: An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc. (*Glossary of Terms*, n.d.)

*Transphobia*: Irrational fear of, aversion to, or discrimination against transgender people (Merriam-Webster, n.d)

## **Data Overview**

This exploratory qualitative study examined the perceptions of non-binary and transgender benefitted staff at selected higher education institutions regarding the efficacy of non-discrimination policies in affording protection in the workplace. As covered in Manuscript 1, prior studies that have undertaken similar examinations in higher education settings in the United

States. This study extends previous research by focusing only on the experiences of faculty and staff and public four-year institutions in the southeastern United States.

### **Nature of the Data**

The data were collected by the author through semi-structured interviews via Zoom videoconferencing. The interview questions are listed in the **Interview Question** section of this manuscript. The interviews were conducted in January 2022 and recorded on the Zoom teleconferencing platform. The author then used Otter.ai, a web-based, AI-driven transcript subscription service to transcribe the audio from the recorded interviews.

The participants – five initially but then four - were faculty and staff employed at four-year institutions in the southeastern United States who self-identified as having non-conforming gender identities. The participants were full time employees of four-year public institutions, both tenured and untenured. They were contacted via email and invited to participate. Once the interviews were completed and the audio from each was transcribed, the author reviewed the transcriptions repeatedly in search for themes and commonalities, as well as for differences that may represent an outlier regarding any particular participant’s experience.

The recordings and transcripts of the interviews are being maintained on the author’s personal, password protected laptop. Per the informed consent statement, the recordings and transcripts will be maintained for one year from the time of recording, which will be January of 2023, and then destroyed. All text, audio, and video files will be deleted.

### **Study Limitations**

The most obvious limitation of this study is the small sample size. The reason for the small size has both to do with recruitment limitations and a lack of willing participants. The very nature of the topic means that there is difficulty finding people comfortable enough to speak

genuinely on their experiences. The sociopolitical climate at the time of recruitment very possibly had an impact on potential participants' willingness to openly self-identify as gender non-conforming higher education professionals. The experiences of individuals at these institutions may differ from those at other institutions or even at the same institutions. While a delimitation of the study, the lived experiences of the participants are valuable in helping to build a body of research to understand conditions encountered by non-binary employees at colleges and universities. The research also contributes to understandings of the expansiveness or limits of diversity policies and practices in collegiate settings.

One participant was recruited through the author's social media contacts, through a group on Facebook that serves as a community for non-binary academics. In fact, other members of this Facebook community expressed a willingness to participate in this study, but ultimately only one fit the criteria for geographic location. The other four participants were contacted through professional networking opportunities, introduced to the author through a professional colleague.

### **IRB and Ethical Considerations**

IRB approval was obtained by the researcher from the doctoral institution. An informed consent form was attached to the recruitment email containing the following statements: *If you agree to participate by completing this form, it indicates you have read and understood the information above about the research, your rights as a participant, that you are 18 years or older, and give your voluntary consent.* By signing this form and setting up a date and time to be interviewed, the participants indicated their consent. The author also confirmed with each participant on video that they consented to having their interview recorded. The author has anonymized participants' identities and protected confidentiality as much as possible.

### **Challenges of Interpreting and Using Available Data**

One challenge to this research was that the gender non-conforming community is a “hard-to-reach” or “hidden” population (Bonevski et al., 2014), meaning that they are a socially disadvantaged group that researchers struggle to access in large numbers, which are necessary for statistically powerful study designs. Social media can be a useful tool in attempts to recruit hard-to-reach, disenfranchised populations into research studies, a fact of which the author took advantage. Several individuals showed interest in participating in this study through social media, however only one recruited in this manner ultimately fit the parameters of the study. The author relied on word of mouth and networking through professional connections to recruit others to participate in the research study.

Ultimately, five individuals responded and agreed to be interviewed. Interviewee #5 consented to participate and then disengaged. The author felt that this indicated a reluctance to participate and that ethically, data from previous conversations with this individual should be excluded. Therefore, data obtained from four of the five interviews conducted by the author are included in this study.

## **Findings**

This section presents the results of the semi-structured interviews, presented through both tabular and narrative formats. The tabular section provides a visual representation of each participant’s characteristics, including the nuances of their gender identities and the particulars of their positions and titles. Also included are the types of institutions at which they are employed. The narrative section draws quotations from the interviews in order to demonstrate the themes that were identified from the interviews.

### **Results – Tabular**

**Gender identity.** Everyone has a gender identity, or an internal sense of self and gender. There has been an increase in understanding in recent decades of the concept of existing outside of the gender binary, and with that understanding has come increased terminology to express the ways in which individuals exist on this gender spectrum. The existence of so many different labels to identify various gender identities reflects the intricacies and individualism that is involved in one's own relationship with their own gender identity. Interviewees #1 and #3 identify as non-binary, and both Interviewees #2 and #4 identify as genderqueer.

**Gender inclusive pronouns.** When speaking of another individual in the third person, the pronouns used typically imply gender, such as *he* for a man or boy or *she* for a woman or girl. These pronouns are used when a person has made an assumption about the gender of the person to whom they are referring. These assumptions are often incorrect, and can even be harmful. Using someone's correct pronouns is an act of respect and is vital to creating a welcoming and inclusive environment. Interviewees # 1, #2, and #3 use *they/them* pronouns, and Interviewee #3's pronouns are *she/they*.

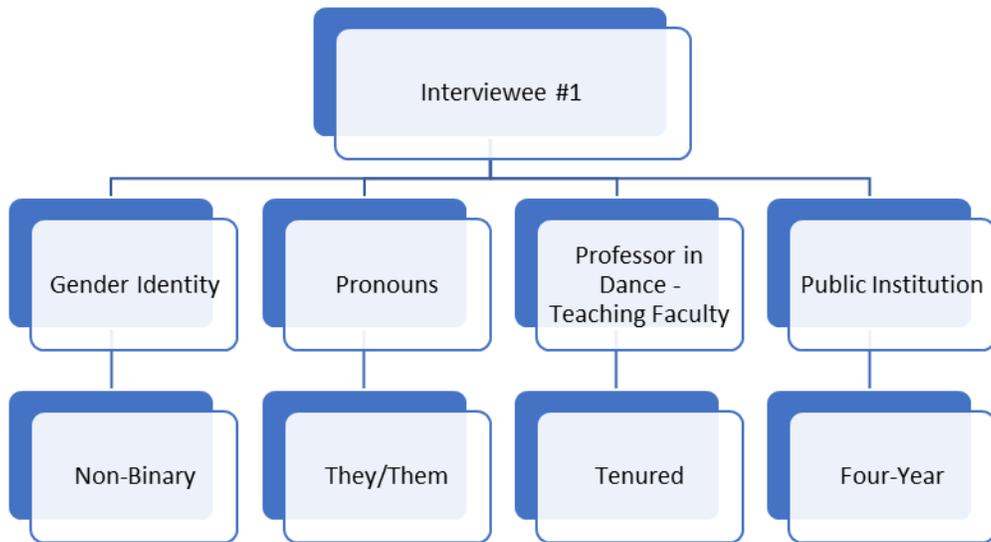
**Position/Tenure status.** For faculty in higher education institutions, tenure means job security and academic freedom. However, not all positions are eligible for tenure. Not every four-year institution maintains tenure as a policy. The type of position (faculty or staff) and whether an individual has earned tenure therefore matters for the purposes of this study, as a common perception exists that tenure adds a layer of job protection for higher education employees. Of the participants in this study, only Interviewee #1 has obtained tenure status. Interviewees #2 and #3 are tenure track employees but have yet to obtain tenure. Interviewee #4 is a professional staff member in their institution's library and is not eligible for tenure.

**Teaching or non-teaching faculty.** Teaching classes adds a layer of visibility on campus and increases the likelihood of forming mentoring relationships with students. Of the four participants, only #1 and #2 teach classes, and both speak of their visibility on campus. Interviewee #3, as a Library Director, does not teach classes, however, they do have regular interaction with students. Interviewee #4 holds a position that calls for very little interaction with students.

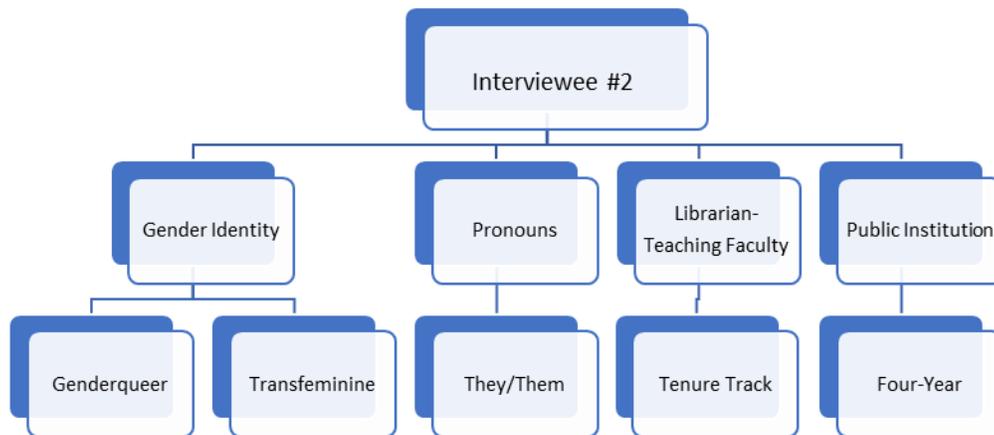
**Type of Institution.** The type of institution, public or private, four-year or two-year, matters to this research because of the laws to which each type of institution must abide by and the campus resources potentially available based on institutional type. For the purposes of this study, it is significant that all participants are employed at public four-year institutions and are therefore subject to federal and state laws governing the use of funding from both the state government and the taxes paid by residents of the state in which said institutions are located. All four participants are employed at four-year public institutions.

### **Visual Aids**

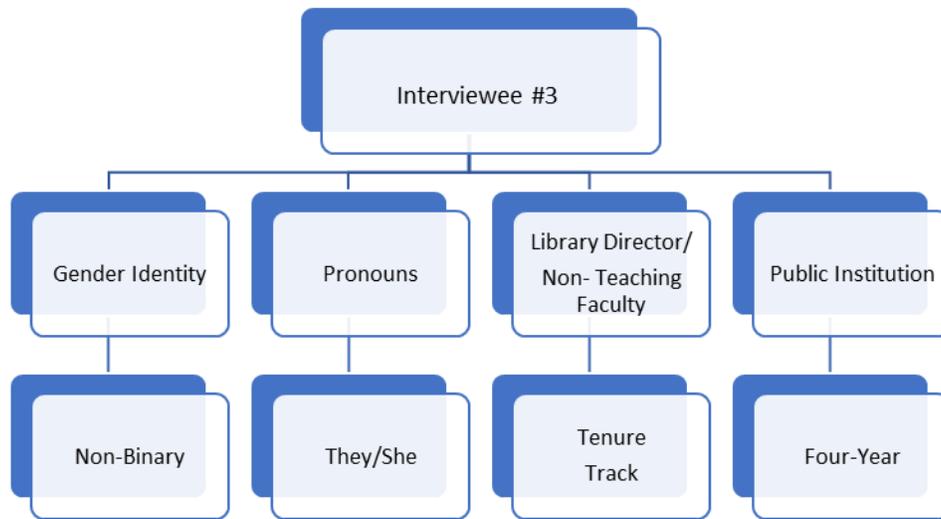
The visuals below represent the various characteristics of each participant and the titles and identities of each that are relevant to this study.



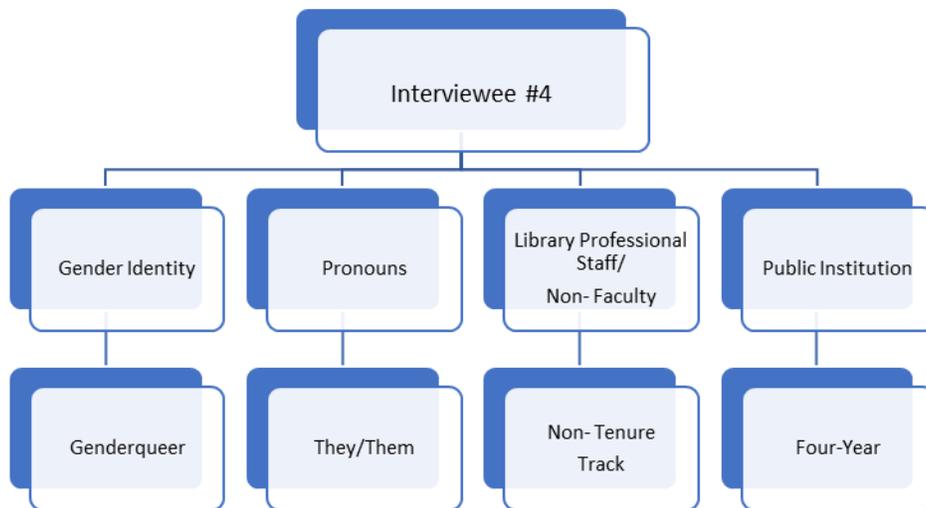
*Figure 1.* This visual represents the characteristics of Interviewee #1.



*Figure 2.* This visual represents the characteristics of Interviewee #2.



*Figure 3.* This visual represents the characteristics of Interviewee #3.



*Figure 4.* This visual represents the characteristics of Interviewee #4.

## Results – Narrative

In this section, the questions used in the semi-structured interviews are presented. In addition to the questions, a rationale or explanation for the questions is also presented to connect these questions with the three questions which are driving this study.

**Question 1.** *How has your gender identity influenced your workplace experience in higher education?*

This question asked the participant to gauge how much their personal awareness of their identity has contributed to their perceptions of their experience working in higher education.

**Question 2.** *To your knowledge, has your institution put any policies in place or relied on existing workplace policies to help create a more welcoming environment for transgender and non-binary employees?*

The purpose of this question was to discover whether the participants felt a sense of security as a result of existing policies at their institutions.

**Question 3.** *How has your institution responded to incidents of discrimination against transgender and non-binary professionals on campus?*

This question aimed to discover how the participants' institutions were handling incidents of discrimination.

**Question 4.** *How have negative experiences and discrimination toward transgender and non-binary professionals shaped your gender expression?*

This question was asked to determine how much negative experiences may or may not have contributed to participants' willingness to be open about their gender expression.

**Question 5.** *Has the environment at your institution affected how much you choose to disclose about your gender identity?*

This question aimed to gauge the impact the campus culture and sentiment had on participants' willingness to be open about their gender identity.

**Question 6.** *You may be aware that recent U.S. Supreme Court Rulings and action by the federal government have recognized legal protections for transgender and non-binary employees under*

*federal employment law. Have any of these recent changes impacted your workplace experience in terms of policies or actions taken by your institution?*

The purpose of this question was to discover whether the participants had noticed any changes in policy at their institutions as a result of Supreme Court rulings affording individuals employment protections on the basis of their gender identity.

### **Overarching Themes**

Four overarching themes emerged from the interviews. Though many concepts that were brought out by each participant were difficult to categorize as they often seemed to overlap with others. Nevertheless, even while those themes contain overlap, I identified four distinct themes in analyzing the data. The first of these themes involves the participant's commentary of how their institutions exhibit little more than superficial support for the inclusivity of transgender and non-binary staff. The second theme to emerge from our conversations was that, despite policies and assurances of allyship, the actions of administrators and fellow staff often reinforces cisnormativity on campus. A third theme dealt with participants' persistent feelings of fear, both for their own safety and for possible repercussions of being open about their identities. Finally, participants shared their ideas of what actions should be taken to improve inclusivity for transgender and non-binary employees on campus.

### **Superficial Support**

A commonality among all the participants' experiences was a sense of what can be referred to as superficial support on the part of institutional administration. Interviewees #1, #2, and #3 spoke of their frustration over a lack of support from administration despite verbal assurances that their presence was welcomed. Among the responses, what emerged was a sense of frustration that participants' institutions were struggling to move beyond acceptance into true allyship. Within this larger theme are several nested concepts which merit closer consideration.

**One size fits all.** As Derek Siegel (2019) explains in “Transgender Experiences and Transphobia in Higher Education”, there is no universal trans experience. Siegel points out that, while similarities exist among binary and non-binary trans individuals as well as between transmen and transwomen, differences certainly exist. Therefore, one-size-fits-all solutions for supporting all transgender and non-binary people on a college campus are inadequate in addressing the needs of this population. Interviewee #3 expressed frustration involving this issue.

My institution is your average institution in 2022, where verbally, yes, they sort of support the queer community. But I think it’s all very general and generic. When we talk about trans and non-binary people specifically, it doesn’t get addressed. It’s not specific. It’s the same for people of color and other groups. They just want this general acceptance, this one-size-fits-all type of acceptance and I think that is part of the problem. To really create a safe space, it needs to be custom to that community and the people within that community.

**Silence as complicity.** Interviewee #2 spoke of the frustration caused by well-meaning people who consider themselves to be allies to the LGBTQ community but simply not understanding how their own behavior can be problematic and even harmful to the people they claim to be supporting.

Our state had a spate of anti-trans bills come through the state legislature last year, but none of them passed. One did pass but it was vetoed by the governor. So, the republicans are very angry, and they’re gearing up for a very aggressive legislative session. And I’m telling the university you have to be responsive. I’m not expecting them to pick a fight with the legislature, obviously, but they need to somehow acknowledge that a portion of

their student, faculty and staff community are being particularly targeted for their identity. Last year, they didn't say a single thing and it was horribly demoralizing.

Though it is incredibly important that LGBTQ people are treated equally under the law, being an ally is about more than policy. It is equally important to understand and acknowledge the adversity LGBTQ people face in their everyday lives. In a Washington Post editorial, Carlos Maza (2016) explained that “so many of the difficult parts of being LGBT exist outside of the legal system — family rejection, street harassment, internalized shame, demeaning media representations and countless other social stressors.” Interviewee #2 expressed in their statement that failing to acknowledge the adversity faced by the transgender and non-binary community only serves to minimize their identity and experiences.

**Performative allyship.** Sociologist Holiday Phillips defines performative allyship as “when someone from a non-marginalized group professes support and solidarity with a marginalized group in a way that either isn't helpful or actively harms that group” (Phillips, 2021). Performative allyship, according to Phillips, usually involves the ally receiving some kind of reward or recognition (Phillips, 2021). Interviewee #2 discussed the fact that their administration is eager to place them in a position of visibility as their openness about their identity places the university in a positive light, helping to improve the image of an institution that has a spotty reputation regarding the handling of past Title IX violations. However, interviewee #2 expressed that, though they have been more than willing to serve on panels and committees, they feel little reciprocation of that support from administrators.

Because I'm openly trans, I think it looks good to put me on a panel. I'm the president of the LGBTQ faculty and staff caucus, which of course raises the visibility, so I get put on all sorts of things. My institution has been particularly egregious with Title IX and

power-based violence issues. So, in an attempt to change their methodology they're putting a lot of emphasis on projects that pull from the faculty and staff across campus, and they're relying on marginalized communities, the queer kids being one of them. But I don't feel like I'm getting support when I need it. They're getting a lot out of me, and when I turn around and ask them for something in return, I'm not sure I can trust that to happen, especially when it matters.

**All talk, no action.** The results of one metanalysis (Webster, 2018) found that while gender-identity-specific non-discrimination policies increased a sense of security in gender non-conforming employees, there were even stronger links to the degree to which employers enact those policies and the impact on this community's sense of psychological well-being in the workplace (Webster, 2018). The effects on a non-discrimination policy are strengthened when leaders model these policies in both words and behavior (Webster, 2018). Interviewee #3 spoke of the tendency of college administrators to write policies and then fail to take actions that would advance a change in the campus culture and climate.

Higher ed institutions in general, they love a policy, they love a committee. Those are the two things that you're always going to get from them. They'll add the most politically correct language that they can find, they'll put a taskforce in charge of putting that together. Then there'll be ten other committees to approve it. But there's no real effort.

**On your own.** Colleges and universities are naturally concerned about recruitment and retention, especially with dwindling enrollment rates. As of Spring 2022, more than one million fewer college students are enrolled than before the COVID pandemic began in early 2020. (Nadworny, 2022). Because of these falling enrollment numbers, colleges and universities are certainly in no position to turn away students based on their identities. According to Lesnick

(2021) “Higher education institutions are no longer in a position to pay “lip service” to diversity, particularly when negative student or staff experiences can turn out to be massively costly in terms of reputational damage, or the ability to attract, recruit, and retain the very best and most talented undergraduates, postgraduates, career academics, or administrators”.

Despite these truths, the leaders of these institutions seem less concerned than they should be about supporting LGBTQ initiatives on campus, according to the participants in this study. All three interviewees expressed frustrations over a lack of visible, verbal, and financial support from their leadership. Interviewee #3 shared their concern that they were seemingly responsible for their own inclusion.

So you're really relying on the queer community to make that safe space for themselves.

Which is something that queer communities have always had to do- find people that you feel safe with and letting that be your subspace. But there's no effort from institutions other than like platitudes. Basically, they say “yeah, we accept you”. But in what way?

Interviewee #2 had similar thoughts.

They are definitely putting it on us to get it done if you want it done. I kind of feel that if we all just stopped doing it, by ‘we’ I mean the queer faculty and staff, it just wouldn’t get done. I would say there is an expectation that we will do it because we’re the ones who care about it, basically. But I don’t think that it particular to the LGBTQ community, right? I think it’s just typical of a predominantly white, cis, hetero-normative institution that relies on any form of difference to take care of itself.

Two participants spoke specifically about the lack of institutional financial backing for LGBTQ groups on campus. Interestingly, both expressed the idea that their administration

*allowed* these organizations to be formed, yet pledged no support nor backing. Interviewee #2 explained,

...if they do anything specific for the queer community, it's to just create basically a special interest group for them. But then there's no funding put into that. There's just a name, and there's just like a "yeah, you can do this."

Interviewee #1 had similar observations, while adding that there were suspicions that their university leadership was reluctant to have the school's name officially associated with an LGBTQ support group out of fear that that association would endanger donations.

There's a difference in funding to various causes. You get anti-racism training on the very first day as you stand at the schoolhouse door, what it means to have been at the university then and what it means now, the kind of mission and what you can strike back against. Then you look at the LGBTQ center, which until a year ago didn't have any kind of funded position, it was a grad student running it part time. The general consensus is we can do what we want as long as we self-fund. But we don't speak about it because the university will never speak about us. We know a donation got pulled from the university, and a rumor went around that it was because of the university's support for LGBTQ people on campus. So, if the university were more open, it could come at the cost of multi-millions of dollars.

### **Cisnormativity in Higher Education**

Higher education institutions are often considered progressive and liberal (Parker, 2021). Despite this, there is much research that highlights the pervasiveness of cisnormativity within colleges and universities (Goldberg, 2018). Preference for binary gender norms comes across in various ways. Participants of this study touched on this topic in discussions of the phenomenon

of what seemed like a preference of certain types of diversity over others, and a unwillingness of some to acknowledge the differences and preferences of gender diverse individuals on campus.

**The wrong kind of diverse.** Interviewee #1 spoke of experiences of marginalization, even in spaces where one should be able to expect the recognition of their identity and particular needs.

There's a real thing, especially in the south, of being the wrong kind of diverse. We champion diversity, as long as you're the right kind of diverse. Even in diversity meetings, a space where I ought to be able to expect people not to misgender me, they do. I experience aggression for trying to call attention to it, because they feel I'm taking attention away from real diversity issues. Getting my pronoun right is not a real diversity issue. It's a luxury in people's minds. It's young, white, millennial fragility, rather than a legitimate category of humanity, and you're just cutting it out of the picture.

**Invisibility.** Interviewee #3 spoke of their frustration over having their own preferences overlooked and ignored.

I consider myself nonbinary. And it's not something that's really brought up in my work life. The only way that people know is my Zoom name, I have my pronouns, she/they, and in my email signature I have my pronouns. I saw a joke one time that said if your pronouns are she/they, you're "she". So sometimes it makes me feel like I'm invisible, like that part of me is invisible. I don't get offended when people call me "she", but I do prefer "them".

### **The Illusion of Safety**

"In colleges and universities, the decision to disclose one's trans identity often depends on social circumstance and perceived safety" (Pryor, 2015). Interviewee #4 spoke of constantly

having to make decisions about whether they feel safe revealing their pronouns. “It’s just sitting and deliberating... do I put my pronouns in the signature of my email? It really is just sort of second guessing, always wondering with so many decisions, how is this going to be received, or if there will be blowback.”

Despite the existence of protective policies, an individual is not likely to feel safe in any climate in which support does not exist. Interviewees #1, #2, and #3 spoke of instances occurring on campus in which they felt uncomfortable or even threatened. Interviewee #1 expressed doubt that non-discrimination policies would be applied with the same consideration in cases of discrimination against transgender or non-binary individuals as they would if discrimination was occurring against cisgendered individuals.

You could make the case that misgendering is a form of sexual harassment. If you deliberately misgender a cis person, it’s a form of sexual harassment. When it’s not a cis person, will that policy hold up? Who knows? That’s like the shiny adventure part of the process. Theoretically the policies are there that could protect you, but whether people will follow the letter or spirit of the policy is another question.

Participant #1 added that the transgender and non-binary community are thankful these policies now exist, but points out that there is still danger in reporting discrimination.

“I think that people who are affected by these policies are always happy to see them. The general consensus of people who need the policies is ‘I’m glad the policies are there, but I’m never going to try to get it enforced if someone’s not already enforcing it’, because they don’t want the risk.”

Participant #1 spoke of the steps they must take to protect themselves in the classroom.

“Where I am now, it’s always a little risky to know where you can push when people are getting it wrong and where you just have to be patient and wait. I don’t require my students to use my pronouns and I explicitly say that. I asked Title IX what I should do, whether I could require pronouns or not. I reached out to them three times and never got a response so I was left to kind of make my own pathway.”

When I’m teaching I’m careful to say that people can leave the class if they are too uncomfortable with the content. I have a lot of optional things that people read and view so that if they do not want to look at explicitly queer resources, they can go around them. Yet I still get comments on my evaluations saying I only teach queer history. So that is the other thing. I document everything- the questions I ask in class, the self-directed learning materials, because when that comment came through, I could say, this is a list of the questions I ask the class to engage with.

Even when there is a threat of physical violence, there is risk in reporting. Participant #1 disclosed information about such an occurrence. “Someone tried to hit me with their car, then drove off. I didn’t call the police, because that’s not what you do”

**Never enough.** Threats to well-being go beyond physical or psychological. They may also involve the potential loss of livelihood. Participant #1 discussed the lengths they felt they must go to in order to ensure their continued employment.

If you know that that it's possible to fire you for that your gender identity is a reason that people will want to get rid of you, the fight to give them no other reason is a constant cloud over your head. It’s not good enough to be as good as other people around you. If you are not absolutely excelling, then you leave yourself open to these accusations of not being good enough. I more than tripled my tenure requirements last year. I’m burnt out,

I'm exhausted. But if I am not doing absolutely more than can be ever asked of me, like if that dossier is not perfect when I submit it, that's a reason for them to fire me and say that's nothing to do with gender, that's your failure. And it's exhausting.

### **Moving Beyond Acceptance**

As transgender student issues grow in visibility in college environments it is expected that resources and accommodations grow to meet the needs of these individuals. It is also certainly desirable that awareness of their unique needs and support, compassion, and informed perspectives grow equivalently. Yet, having an inclusive and affirming environment depends on more than policies. A welcoming environment is dependent on training for staff, faculty and students. Interviewee #2 shared their insight on the importance of effective training for all members of their campus community.

They've recently been working with some organizations here on campus that focus on trauma based and trauma informed mental health, trauma informed survivors, services, for sexual harassment, etc. So, with that training I think the institution is just now learning how to get out of their own way, right? Like, don't develop your own training, but rely on what somebody else is doing nearby. Because as a university you're interested in protecting yourself. If you're actually interested in helping people, let somebody else come in. Because whatever training they're doing, whatever training was coming down from the state level, is always about protecting the institutions. For us to be able to get training that's actually geared toward the people and not protecting the institution, that's such a big deal.

## Responses to the Research Questions

The first research question is: *how does gender identity influence workplace experiences for transgender and non-binary professionals in higher education?* The responses from the interviews reflect the fact that no two people have the same experiences and their needs cannot be generalized. The answers, however, seem to relate to a person's position, their visibility on campus, and how much they interact with the student population. Interviewee #1, a tenured faculty member, reported more negative interactions and incidents of microaggressions than all other participants, both from students and professional colleagues. They are also the one participant with the heaviest teaching schedule. Interviewee #2 is in a professional staff position, yet has great visibility on campus and does teach some classes. This participant reports varying levels of positive and negative experiences, though the impression given was that negative feelings stemmed from a lack of support from administration more so than student or staff interactions. Interviewee #3 holds an administrator position and reports fairly positive experiences relating to their disclosure of their gender identity. Their negative experiences involve, for the most part, misgendering and incorrect pronoun usage and not outright hostility from either students or staff.

Interviewee #4 has the least visibility on campus of the four participants and reports the most neutral experience regarding reactions to their gender identity, only expressing that their experience has been more positive in the higher education environment than in either public or corporate settings. They expressed that they have not experienced any incident that would require the protections laid out in their institution's non-discrimination policy, surmising that this may be because of their lack of visibility on campus. "I haven't run up against anything that really calls on any of those policies. I assume if I had to interact with students or the general

public more it might come more into play. I mean, I don't work with the public, I work in a basement away from everyone.”

The author admits to feeling some frustration over this participant’s lack of engagement during the interview. This interviewee’s answers seemed less meaningful to the researcher, who felt that this individual had not spent very much time reflecting on their own experience as a gender non-conforming employee in higher education. The author, however, recognizes that these impressions may represent a personal bias. As the researcher conducted their analysis of the interviews and transcripts, they began to feel that there was indeed merit to this individual’s testimony, and that their prior assumptions about the usefulness of their answers may have been hasty and flawed. The researcher felt that this person’s lack of visibility on campus and lack of interaction could possibly be a factor in their more neutral experience in the workplace.

The second research question is: *how do participants perceive the efficacy or not of institutional policies related to equity and non-discrimination, including ones that specifically encompass transgender and non-binary professionals?* All four participants confirm the existence of protective policies at their institutions that specifically specify *gender identity* as a protected trait. None of them, however, had witnessed the policies put into action, and gave noncommittal responses to the question of confidence in the efficacy of the policies. Responses ranged from interviewees #2 and #3 were: “it’s a little wait and see-ish” and “there’s no real effort from institutions other than platitudes, but basically to say, ‘yeah, we accept you’”.

Interviewees #1 and #4 pointed out that their institutions seemed ahead of other state organizations in updating their non-discrimination policies to include gender identity, or that they had done so before it became federally mandated. Interviewee #4 stated that “it’s still not required on the state level, but (our institution) has had it for quite a while now, and that seems to

make a difference”. Interviewee #1 mused, “Will the policy hold up? Who knows? That’s the shiny adventure part of the process.” Overall, the consensus appears to be that all participants are thankful the policies exist, recognize that the existence of the policies is somewhat progressive, but have yet to see the policies truly tested.

The third question is: *how have negative experiences and discrimination against transgender and non-binary professionals shaped their gender expression?* Unanimously, all participants expressed in some measure that they’re always judging their environment and their audience, gauging how safe they perceive themselves to be. How they respond in any situation relating to the disclosure of their gender identity is directly related to that sense of safety.

### **Implications**

The sense that emerges from these interviews is the gender non-conforming individuals who participated in this study are always hyper-vigilant about their environment. For those who are working in higher education, the more visible they are on campus the more heightened must their awareness be about potential dangers. Non-discrimination policies that include protections based on gender identity have gone some way to alleviate the misgivings of transgender and non-binary higher education employees about their job security. However, the seeming unwillingness of administration to advertise their support of inclusion initiatives for gender non-conforming people on campus is undermining these individuals’ confidence in these protections.

### **Summary**

The promotion of Diversity, Equity, and Inclusion initiatives are a growing priority for higher education institutions. Increasing numbers of DEI staff are being hired and DEI departments are being formed with the goal of creating a more welcoming environment for all

students. However, the effectiveness of these initiatives and increased staff has yet to be determined.

The purpose of this exploratory study was to examine the effectiveness of non-discrimination policies in protecting transgender and non-binary faculty and staff on college campuses. The author's interest in this topic is personal, being a non-binary higher education employee. The current socio-political climate is not conducive to helping gender non-conforming individuals find a sense of security in their employment. Now that the United States supreme court has determined that transgender and non-binary people are entitled to workplace protections under Title VII of the Civil Rights Code, anti-discrimination policies have been revised to include gender identity as a protected trait at higher education institutions across the country. This study aims to determine the efficacy of these policies.

The principles of the Carnegie Project on the Education Doctorate, ethics, equity, and social justice should naturally be applied when examining ongoing discrimination facing transgender and non-binary Americans, particularly when it comes to the question of equal access to education and employment. These are the rights of all members of society if equality is to be achieved. The marginalization of any particular group only serves to weaken a democracy. This study employs the framework of David Labaree and Dr. Susan Stryker. Labaree's research on the impact educating all citizens has on strengthening a democratic society and Stryker's research on the systematic discrimination of transgender people are applicable to this study.

Through a series of interviews, the author obtained data relating to the participants' perceptions of the efficacy of protective policies in providing job security in their places of employment. Details are given about the collection of the data, including a discussion about considerations of ethics and the privacy of participants. The limitations of the data as well as the

possible biases of the researcher are discussed. The data was examined for themes, and the findings are discussed in both tabular and narrative forms, using quotations from the interviews.

The results of this analysis indicate that high visibility contributes to increased negative experiences and feelings of insecurity. The three participants who had the most interaction with students and staff expressed limited confidence in their administrators' willingness to follow through on the protections laid out in their institutional non-discrimination policies. The participant with the highest visibility and highest involvement with students reported more negative interactions than the other interviewees, while the participant with the least visibility and least interaction with students and other staff reported a fairly neutral experience in the workplace, only saying that the higher education environment was more tolerant than other environments.

The possible implications of these results are that college administrators' unwillingness to openly support their transgender and non-binary community is undermining their sense of belonging. Words in a policy are simply words if there is no follow through. In order for true inclusion to take place there must be a culture change on college campuses, a culture that reinforces societal genderism in practice as well as in policy.

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**Manuscript 3: Do Policies Matter? An Exploratory, Qualitative Study of the Lived  
Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

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**Manuscript 3: Do Policies Matter? An Exploratory, Qualitative Study of the Lived Experiences on Campus of Transgender and Non-Binary Higher Education Employees**

**Summary of the Problem of Practice**

As of June 2020, the U.S. Supreme Court stipulated in their decision in *Bostock vs. Clayton County* that discrimination based on gender identity was prohibited under Title VII of the Civil Rights Act of 1964. Prior to this ruling, there were no federal employment protections for transgender and non-binary individuals. After the Bostock decision, the ruling was applied to other statutes as well, extending protections to LGBTQ individuals in housing and healthcare. However, hostile state governments across the country are introducing and passing anti-transgender legislation in an effort to strip gender nonconforming Americans of their human and civil rights.

There is evidence indicating that anti-transgender legislation is worsening an already tense school environment for transgender youth (Alfonseca, 2021). One civil rights scholar finds that “campaigns that mischaracterize LGBTQ-supporting policies as harmful to young people are a staple strategy conservatives use to galvanize their base” (Gash, 2022, para. 10). These anti-LGBTQ bills are largely focused on school activities such as whether to allow transgender players on sports teams and what teachers should be allowed to include in their curriculum. Florida’s recently passed “Parental Rights in Education” bill, dubbed by critics as the “Don’t Say Gay” bill, forbids discussion of gender and sexuality issues with students in early elementary school (Wolf, 2022).

The focus of anti-LGBTQ activists on schools does not only affect students. All members of a campus community are impacted when culture wars descend upon schools, as they inevitably do. As Valant and Zerbino (2021) asserted: “Whether the issue is critical race theory, masks, or transgender students’ rights, politicians—specifically, conservative politicians—are finding opportunities to score political points by running with controversial issues in schools” (para. 15).

Opposition to transgender rights is also originating from inside the walls of universities. University and college professors who oppose transgender rights are beginning to push back against what they feel is an attack on their rights of free speech and academic freedom. The University of Rhode Island has distanced itself from a tenured professor, Donna Hughes, who has penned an essay about what she calls the *trans-sex fantasy*. Hughes complains that people are being fired for misgendering someone or not affirming their *claimed gender identity* (Flaherty, 2021).

In 2018, Professor Nicholas Meriwether of Shawnee State University refused a transgender female student’s request to be called by feminine pronouns. Meriwether argued that, because of his religious beliefs, he did not regard the student as female. The university issued a written warning to Meriwether that he could be fired or suspended without pay for violating the university’s non-discrimination and gender identity policies. Meriwether then sued the university for what he felt was a violation of his constitutional rights of free speech and free exercise of religion. A district court initially dismissed Meriwether’s first case against Shawnee State University, finding that the university had not violated his constitutional rights. However, the U.S. Court of Appeals for the Sixth Circuit reversed the district court’s decision. The Court of Appeals explained in its opinion that the First Amendment protects the academic speech of

university professors, and since Meriwether alleges that the university compelled his speech or silence in the classroom, his free-speech claim may proceed (*Meriwether v. Hartop*, 2021).

The Meriwether case has particularly alarming implications for the validity of both Title VII and Title IX protections. The outcome of *Meriwether v. Hartop*, should the court ultimately rule in the professor's favor, could set the precedent for any type of discriminatory behavior that may be justified by one's religious beliefs to overrule non-discrimination policies in colleges and universities. Biblical justifications have historically been offered for racism, for slavery, and for the oppression of women (Ruether, 2014). If Meriwether's religious views on gender identity are determined to overrule the university's non-discrimination policy, the ramifications for any individual protected under the guidelines of Title IX or Title VII could be disastrous.

While unprecedented levels of anti-transgender legislation circulate through houses of government across the country, transgender and non-binary people are experiencing hostility and opposition to their presence in the very places that profess to welcome them, institutions of higher education. One professor in Pennsylvania feels that the transgender population are simply easy targets. "When there is pent-up tension within society, gender and sexuality provide an easy outlet for persecution. This vulnerable population is continually served up, like game pieces in the culture wars" (Garcia & Shendelman, 2021, para. 4).

The purpose of this exploratory qualitative study was to learn how transgender and non-binary higher education faculty and staff were faring in the face of such hostility. This study aimed to discover the efficacy of institutional non-discrimination policies in providing a safe work environment for members of what is arguably the most vulnerable population currently living and working in our society. The data collected from the interviews in this study contribute

to our understanding of how colleges and universities are and are not making transgender and non-binary faculty and staff feel welcome on campus.

### **Literature Review and Conceptual Framework**

In the late 20<sup>th</sup> century, educational practitioners began to focus heavily on recruiting a more diverse student body on college campuses across the United States. Gurin et al. (2002) explain that

...in the post-civil rights era, higher education leaders set the vision to create in their institutions a microcosm of the equitable and democratic society we aspire to become. Classroom diversity, diversity programming, opportunities for interaction, and learning across diverse groups of students in the college environment now constitute important initiatives to enhance the education of all students (p. 362).

Gurin et al., like other scholars of the 20<sup>th</sup> and early 21<sup>st</sup> centuries were focused only on racial diversity. According to Gurin et al. (2002), “the admission of more racially/ethnically diverse student body was an important starting point” (p. 362) in realizing this vision of a more equitable and democratic society. Woodford, Joslin, and Renn (2016) state that “it is commonly accepted that diversity among the students, staff, and faculty in the university community is critical to providing high-quality education” (p.57); however, they acknowledge that increasing diversity tends to be interpreted as increasing racial and ethnic diversity within academia.

As LGBTQ activism has grown in the United States, more attention has been given to the experiences of LGBTQ individuals on college campuses (Marine & Nicolazzo, 2014). LGBTQ centers are increasingly prevalent on college campuses and interest in the welfare of these individuals has been growing in scholarly literature (Marine, 2011; Ryan; 2005; Sanlo, 2000). However, until the last decade, transgender rights were largely ignored. Marine and Nicolazzo

(2014) point out that although campus centers often include transgender concerns in their names, specifically the T in LGBTQ, their true interest in the plight of the transgender population mirrors the exclusionary attitudes that are characteristic of the LGBTQ rights movement.

Transgender and non-binary individuals often face multiple forms of marginalization and victimization on college campuses (Bilodeau, 2009). Despite this, the 21<sup>st</sup> century has seen a growing number of gender non-conforming people choosing to be out on campus (Beemyn, 2005). Colleges, however, have been unprepared to meet their needs (Seelman, 2014), and this is largely due to a lack of research and understanding. Scholars have attempted to reverse the lack of literature and research that existed prior to the last decade on the experiences of gender non-conforming students, faculty, and staff in higher education. Seelman (2014) conducted a qualitative study gathering empirical data from 30 transgender students, faculty, and staff on what institutional actions and policy changes they felt were needed to address the marginalization they were experiencing in higher education settings.

Other researchers have made recommendations for improving support systems for transgender students on college campuses (Beemyn, 2005; Beemyn et al., 2005; Bilodeau, 2007; Finger, 2010; McKinney, 2005; Rankin, 2003). Seelman's (2014) research added to the work of these advocates by gathering empirical data from transgender students, faculty, and staff. Seelman found that the experiences of gender non-conforming people on college campuses were impacted by the various identities those people hold and their relative visibility on campus. Seelman's research specifically indicated that transgender and non-binary people have unique and specific needs and should not simply be placed underneath an LGBTQ umbrella.

Research has shown that diversity, equity, and inclusion (DEI) is important for achieving academic excellence (Stewart & Vilian, 2018), and that having diverse groups of students,

faculty, and staff on college campuses facilitate innovation and creativity (Armstrong et al., 2010; Stewart & Valian, 2018). A diverse faculty in particular influences educational outcomes for all students, not just those from underrepresented populations (Turner, 2000). However, studies have shown that campus climate plays a substantial role in the decisions of many queer and transgender faculty's decision to leave their positions. These studies indicate queer and transgender faculty have experienced significant microaggressions, including tokenism, stereotyping, increased scrutiny, isolation, and constraints on academic freedom (Biltmoria and Stewart, 2009; Rankin, 2003; Sears, 2002).

Very often, this discrimination is coming from other faculty members, according to Marchiondo, Verney, and Venner (2021), who discuss the importance of faculty support of DEI in successfully ensuring that all underrepresented communities are being welcomed and treated equitably. The variable that most influences faculty members' support of diversification, according to Marchiondo, Verney, and Venner, is the social influence of academic leaders. They find that "faculty—particularly, men—report greater awareness of bias and subsequently, endorsement of institutional diversity when they work with academic leaders who hold pro-diversity attitudes. This study highlights the responsibility of academic leaders—beyond upper administrators—for fostering DEI support on campus" (Marchiondo, Verney, & Venner, 2021).

The impact of administrator attitudes toward transgender and non-binary inclusion among their employees cannot be understated. In a K-12 focused study, Dow and Wagner (2022) conducted a mixed methods study (2022), including a quantitative survey with 27 transgender teachers and school principals, in order to discover effective support systems for transgender educators. The results of this study show that while some educational administrations support transgender educators in principle, they lack the proper tools to do so. The study also revealed

that many administrators remain hostile toward transgender administrators, leading to a hostile work environment. According to Dow and Wagner (2022), proper support of transgender educators and principals is dependent on educational administrators learning the necessary skills to provide a more welcoming environment for transgender educators.

One issue impacting the effectiveness of gender identity inclusive policies is the culture of cisgenderism on college campuses. According to Mathers (2017), institutional leadership will be required to develop a more expansive interpretation of gender and develop an understanding of how they themselves are reinforcing gender binaries in their daily interactions. Smith and Payne (2016) explain that without confronting their own subconscious bias toward cisgender binary gender structures, campus administrators will be unable to support gender inclusive policies in a meaningful way. Smith and Payne suggest that attending professional development specifically geared toward the topic on gender identity is necessary for educators to begin to alter their own narrow interpretations of gender-inclusive identities.

The theories of David Labaree (1997) and Susan Stryker (2017) were used in framing this study. Labaree (1997) theorizes that there are three distinguishable goals of education: *democratic equality*, *social efficacy*, and *social mobility*. The goal of *democratic equality* holds that a democratic society cannot persist unless it prepares all people equally for the responsibility of citizenship. Political equality can be undermined if the social inequality of any group of citizens grows too great. The *social efficacy* approach argues that our economic well-being depends on our ability to prepare citizens to carry out useful economic roles competently. The *social mobility* approach argues that education is a commodity, the purpose of which is to provide citizens with a competitive advantage in the struggle for desirable positions.

Stryker's (2017) work illustrates the ways in which cultural gender norms marginalize transgender people from fully and freely participating in the benefits and responsibilities of social life. Stryker explains how laws and policies work to oppress gender non-conforming individuals, stripping them of any hope of equal citizenship in a cisnormative society. Transgender and non-binary people will hardly be considered deserving of equal treatment if they are not even seen as human.

Labaree's (1997) views regarding the three alternative goals of American education, particularly that of democratic equality, are relevant to this research, as Labaree's work establishes the foundation for the argument that equal treatment and equal access must be extended to the gender non-conforming population in order to facilitate democratic equality and progress. Stryker's (2017) research also provides evidence that the systematic oppression of citizens based on their gender identity is unjustifiable in a democratic society, as treating all members of a society as equal is vital to that society's democratic process.

It is Stryker's theories that have the most impact on the outcome of this study. Stryker (2017) explains that many people feel panic, disgust, hate, contempt, and outrage upon encountering transgender and non-binary people, and these emotions are coloring their reactions to sharing any given space with this marginalized population. The current socio-political climate reflects the fact that many people in positions of power and authority, due to their personal feelings and fears about gender non-conforming people, are against extending equal rights to individuals who do not adhere to cisnormative societal rules. This phenomenon does not disappear when walking onto a college campus, and the existence of non-discrimination policies alone cannot overcome deeply embedded societal practices, ideologies, and stereotypes.

## Data and Study Exploration

This study sought to gain an understanding of the experiences of transgender and non-binary faculty and staff working in higher education. Therefore, a qualitative approach, using semi-structured interviews made sense for the acquisition of data. Though there have been several studies researching the experiences of transgender students on campus, several of which have been referenced, there have been far fewer focused on faculty and staff.

The timing of this study is also significant. Recent rulings of the U.S. Supreme Court regarding the inclusion of gender identity under Title VII has changed the dynamic for gender non-conforming people working on college campuses. When research for this study began in 2019, the Trump administration was still in office and there were no federal employment protections in place for transgender and non-binary Americans. By the time that interviews were conducted, the Biden Administration was in office and the Supreme Court had ruled in favor of *Bostock*, establishing that Americans cannot be fired from their employment based on gender identity or gender expression. This project shifted from focusing on how transgender and non-binary employees were being affected by lack of federal protections to focusing on how effective new guidelines were in helping them feel secure in their positions. This added a different dimension to the study, because whereas prior to this *Bostock* ruling, employment discrimination based on gender identity was not only happening, it was also expected. After the ruling in *Bostock*, there were assumptions that nothing further was needed. Gender non-conforming individuals had federal protections, so what more were they asking? This study aimed to discover exactly that.

No unique terms emerged. All terminology used in this study, whether determined by the author or emerging from participant interviews are terms which have been previously defined

and documented. Inductive data analysis was used in an attempt to reduce bias, as the author sought to identify themes within the data without adhering to a preconceived hypothesis.

Some limitations did emerge. The most obvious limitation was the small sample size. The fact that the topic of this study is a controversial one and participants were being recruited from an area of the country in which tolerance of gender non-conforming people is notoriously low contributed to difficulty in locating individuals willing to participate. Another limitation was that members of one department dominated the sample. Three out of four participants were academic library professionals. The author is an academic librarian and has access to networks consisting of other librarians working in higher education; therefore it made sense to utilize those networks in locating participants for this study. However, because participants were overwhelmingly members of the field of librarianship, the sample was not reflective of all higher education faculty and staff.

### **Summary of the Findings**

In analyzing the data from the semi-structured interviews conducted for this study, four distinct themes were identified. The first of these themes involves the participants' frustration that their institutions exhibit little more than superficial support for the inclusivity of transgender and non-binary staff. The second theme was the reinforcement of cisnormativity by college administrators, despite assurances of allyship to the gender non-conforming community on campus. The next emergent theme was participants' feelings of fear, both for their own safety and for their continued job security should they be open about their gender identities. The fourth theme consisted of participants' input on what might improve inclusivity for transgender and non-binary employees on campus.

Several participants spoke of the tendency of their leaders to generalize support systems for all LGBTQ people on campus, failing to recognize that there is no universal transgender experience and there can be no one size fits all solution. The interviewees in this study also expressed their disappointment that their institutions seemed unwilling to publicly verbalize their support for transgender and non-binary people on campus, or even to acknowledge the adversity gender non-conforming people are facing in their everyday lives, particularly in the face of a sociopolitical climate that is hostile to their very existence. Though several of the participants spoke of being involved in committees and panels, they felt as if they were being put in these positions to benefit their institutions while being offered no reciprocal support. Ultimately, the individuals who participated in this study felt they were being held responsible for their own inclusion of campus while receiving no visible, verbal, or financial backing from their institutional leadership.

The participants in the study spoke of how the reinforcement of cisnormativity on campus, whether intentional or unintentional, negatively affects their experience at work. Several spoke of not having their needs taken seriously by co-workers. The simple act of having colleagues acknowledge their pronouns would go some way toward increasing their feelings of welcome; however, many seemed to be willfully ignoring these preferences. One participant spoke of issues of safety campus. According to the participants of this study, making the decision to be open about their gender identity on campus comes with risks, both to employment security and to physical safety.

The interviewees in this study all stated they are relieved that gender identity has been included in their institutional non-discrimination policies. However, they all feel that creating an inclusive environment requires more than just words in policies. The data from the interviews

suggest that all stakeholders in colleges and universities must take ownership of diversity and inclusion efforts on campus in order for true inclusivity to occur.

It became apparent when analyzing the interviews that the amount of visibility the participants had on campus had a direct impact on the amount of negative interactions they experienced in their respective workplaces. Of the participants, one was a tenured faculty member who had daily interactions with students. This person reported the most microaggressions and discriminatory instances of all interviewees. Another participant, a professional staff member with little interaction with students or other members of staff or faculty had the least instances of negative interactions of all the participants in this study.

The implications of this analysis are that increased visibility on campus brings increased discrimination for gender non-conforming faculty and staff. Administrators bear a great responsibility in setting the tone on campus and are most in a position to direct a cultural shift at their institutions. Yet, the unwillingness of institutional leadership to advertise support for the inclusion of transgender and non-binary employees is hindering the effectiveness of inclusion efforts where this population is concerned. Nothing less than the full collective ownership of all institutional stakeholders will bring the successful implementation of these initiatives.

### **Improving Practice to Enhance Equity, Ethics, and Social Justice**

The problem of practice examined in this study concerned the perceptions of non-binary and transgender staff and faculty at selected higher education institutions regarding the efficacy of non-discrimination policies in affording protection in the workplace. The purpose of analyzing a problem of practice is to identify solutions to that problem. In the case of this study and indeed in the case of all issues currently facing the realm of higher education, one must consider the

concepts of equity, ethics, and social justice when applying possible solutions to inadequacies of policy or practice.

This section will consider ways in which programmatic changes or revisions, as well as the enhancement of stakeholder engagement with policies and practice could potentially bring about improvements in problematic institutional culture contributing to the lack of an inclusive environment for gender non-conforming employees on college campuses. Drawing from research from previous literature as well as data gathered from this study's participant interviews, this section will consider how new approaches may be required in order to tackle systematic issues hindering inclusion efforts for transgender and non-binary education professionals. Finally, this section will end with a discussion of plans for the dissemination of the findings of this research.

### **Programmatic Changes/Revisions in Policy and Practice**

The known presence of trans-inclusive policies and supports, as evidenced by the data gathered in the interviews conducted for this study, contributes to a greater sense of belonging and more positive perceptions of campus climate for gender non-conforming faculty and staff. Yet, whereas the policy itself is a necessary political intervention, it loses effectiveness if educators cannot address their own subconscious desires for learning and teaching within a gender binary and cisgenderist framework (Frohard-Dourlent, 2016; Morgan and Taylor, 2018; Smith & Payne, 2016). The mere existence of a policy does not translate to the creation of a safe space. The fact that people must out themselves in order to receive the benefits put forth in gender inclusive policies increases their feelings of risk and of being victimized (Omercajic & Martino, 2020).

The language in institutional non-discrimination policies states that discrimination on the basis of gender identity is forbidden, yet, according to the participants in this study, administrators often show no real effort to counter systematic cisgenderism on campus. Schools must be prepared to address these deeply embedded issues by actively promoting trans-affirmative resources and curriculum and pedagogy to ensure that their climate is significantly more positive for gender non-conforming campus community members.

There is a need in higher education to confront gender hierarchies and their effects on transgender and non-binary individuals (Connell, 2009). Doing so will require developing a more expansive and equitable view of gender (Courvant, 2011), rather than continuing to rely on binary understandings of gender that are often utilized in an attempt to make sense of the transgender experience (Mathers 2017). By relying on wording in policies while failing to educate members of a campus community about gender diversity, colleges and universities are contributing to a campus environment in which gender non-conforming people are being forced to carry the burden of educating others about their identities. This can be emotionally draining and exhausting for a population already facing marginalization in every aspect of their lives. The existence of non-discrimination policies that specifically mention gender identity as a protected trait should be effectively erasing any requirement for gender non-conforming employees to advocate for their own inclusion. The fact that these burdens clearly still exist indicate a failure in policy and a need for a complete revision in how expectations of inclusion are disseminated and enforced.

Ultimately, gender identity inclusive policies should be widely discussed and disseminated on campus and not simply quietly added to the school website in hopes that no one will take notice. There is a significant need for notice. The presence of gender inclusive policies must be

accompanied by training and education measures for every member of a college campus in order to even approach real effectiveness. Students should be provided with education and training to enhance their understanding of gender diversity beginning with their new student orientations. Faculty and staff members should undergo mandatory training that includes transgender inclusive language, terminology, pronouns, and other tools that may help them understand and interrupt the gender binary.

Deepening campus community members' threshold of understanding about gender diversity and systematic cisgenderism is a vital component in addressing transgender marginalization (Rands, 2009). Colleges and universities have a responsibility to take appropriate steps to enforce their own institutional policies. In this case, doing so will depend on addressing the forces at play that make it difficult for transgender and non-binary people to feel comfortable being out and visible on campus. Jourian (2021) notes that, "As educational institutions for the public good, there is an added responsibility to affect social change by shifting the public discourse" (para. 8).

Most importantly, it cannot be understated how much the behavior, actions, and priorities of administrators set the tone for campus culture. It would be beneficial to conduct research that seeks to understand the pressures college leaders face in maintaining a certain image in order to secure funding and donations from stakeholders who have opinions about who and what they are funding. How much leverage do donors have in influencing hiring and scholarships? And do institutional leaders feel pressured to appease these donors? Qualitative studies including interviews with higher education leaders, particularly in regions where public opinion is decidedly strong regarding the inclusion of gender non-conforming people, could certainly tie into discussions on the ineffectiveness of diversity and inclusion policies. Such studies have the

potential to determine how outside pressures and influences may be affecting administrator willingness to be seen as supportive, beyond legal obligations.

### **Enhancing Stakeholder Involvement in Implementation and Improvement**

Theriault (2017) states, “By framing inclusion as a process that benefits all people, regardless of sexual identity, professionals may enhance stakeholder support over approaches that focus solely on sexual identity” (p. 129). Theriault examines LGBTQ inclusion initiatives in education with particular focus on recreational practices on campus, explaining that policy-driven recommendations for the creation of safe spaces for LGBTQ people on college campuses rarely consider the unique and complex challenges that LGBTQ individuals face in non-curricular settings. Theriault’s research is significant to this study as it illustrates barriers that arise when institutions rely only on policies to implement supports for LGBTQ inclusion, without any follow through. Theriault (2017) declares that “LGBTQ inclusion may be unintentionally viewed as symbolic if organizations do not explicitly connect policies with action” (p. 123).

The participants in this study expressed their frustration with their institutional leadership’s tendency toward paying lip service, but little more to inclusivity. There is also scholarship suggesting that college and university staff participation in campus activism is generally low (Kezar & Lester, 2011). Faculty and staff, however, have limited power, particularly if they are not protected by tenure. Administrators are the people in a position to drive culture change on their campuses, and this power must be utilized for organizational change to occur.

A systematic culture shift would require the participation of all members of a campus community, the students, the faculty and staff, the administrators, and even the parents of

students and alumni. It is evident from the data gathered in the interviews in this study that LGBTQ staff and faculty are being disproportionately relied upon to create an inclusive environment for themselves. Transgender and non-binary people should not be responsible for this undertaking. These initiatives must be taken on by all stakeholders. Sharing responsibility not only shares the burden more equally among staff—which may minimize burnout—but also results in a more consistent message of inclusion across the organization (Allison & Hibbler, 2004).

### **Personal and Professional Practice Reflection**

Identity concealment is a term referring to a practice employed by gender non-conforming people in which they conceal their gender identity from those around them (Flynn & Smith, 2020). The extent to which a transgender or non-binary individual chooses to blend into the binary social environment is referred to a *passing* or *blending* (Flynn and Smith, 2020). Gender non-conforming people choose to blend or pass into their social surroundings for various reasons, very often out of fear of victimization should they reveal their true identities. However, research reveals that this type of *identity erasure* (2020) contributes to feelings of distress for transgender and non-binary people and has a negative impact on their mental health.

As a non-binary individual working in higher education, decisions, both conscious and unconscious, about how much to reveal about my gender identity have colored nearly every interaction I have had in my professional life. Like other gender non-conforming people, I have been obligated to walk a thin line between authenticity and safety, knowing that being out as a non-binary person could endanger my employment, or at the very least, negatively impact how I am viewed by professional colleagues. I chose to research the experiences of transgender and non-binary higher education employees working in similar institutions in similar geographic

regions in order to discover whether my situation was unique or a commonality among gender non-conforming people navigating their existence in academic spaces.

I admit that my assumptions were that my experiences were not unique; however, I was prepared to admit the possibility that I was projecting my own emotions onto others in similar situations, and that their experiences might not mirror my own. I do believe that to some extent, this was true, but not in the way I expected. My personal ability to *pass* or *blend* into my binary work environment has eased my way through my professional career in ways that were not necessarily available to some of the participants in this study.

I discovered that while I often face discrimination and microaggressions, others were experiencing threats to their physical safety that I have not experienced because I am not out professionally. The interviewees revealed that their level of outness absolutely does impact their experience, and this fact has justified the need for this research. The policies are in place to protect those who self-identify as gender non-conforming, and the amount of discrimination one faces intensifies once they self-identify.

The revelations from the interviews in this study indicate that non-discrimination policies are not having the impact they are meant to have, and this should come as a call to action to educational leaders and policy makers. Humans know when they are not wanted. When there is constant sociopolitical messaging conveying the message that you are a monster and others are not comfortable with your presence, human beings sense that message. Therefore, institutions absolutely must be doing more than simply what is legally required of them to counter these messages. If institutions wish their diversity and inclusion efforts to be taken seriously, they will be required to take a hard look at how their own cisgender binary structural biases are impacting

their level of commitment to the inclusion of transgender and non-binary individuals employed at their institutions.

### **Plans for Dissemination of Findings**

There are opportunities for the dissemination of these findings within publications with interests in issues facing higher education in general as well as those specifically focused on gender studies or law and policy. The author plans to submit refined versions of this manuscript to several appropriate publication venues. The possibilities for publication include the *Chronicle of Higher Education*, the *Journal of Gender Studies*, the *International Journal of Information, Diversity, & Inclusion*, the *Journal of Law and Policy*.

### **Summary of the Manuscript**

In June 2020, the United States Supreme Court ruled that transgender individuals are entitled to protection under the Civil Rights Act of 1964, establishing previously non-existent federal employment protections for gender non-conforming Americans. However, evidence indicated that tense school campus environments may be worsening for transgender and non-binary individuals. The reason for this intensifying situation has much to do with socio-political culture wars permeating public discourse and policy in the United States.

Opposition to transgender rights is growing rather than lessening, and is originating not only from conservative legislatures, but also from within university classrooms. College professors, concerned their own free speech and academic freedom are under attack, have begun to push back against non-discrimination policies that forbid misgendering or dead naming transgender and non-binary people on their campuses.

The author chose to undertake this research as a result of personal experiences as a non-binary higher education professional. In an effort to discover whether other gender non-

conforming professionals were experiencing similar feelings of disillusionment at the ability of non-discrimination policies to protect against microaggressions and other discriminatory instances, the author conducted this exploratory study of the experiences of transgender and non-binary higher education employees on campus. In order to frame the study in terms of the democratic right of all citizens to participate equally in society, the theories of David Labaree (1997) and Susan Stryker (2020) were selected as a framework. Labaree's work establishes that the social inequality of any particular group weakens the society as a whole. Stryker's research illustrates the ways in which cultural gender norms marginalize transgender people from fully and freely participating in the benefits and responsibilities of social life. Combined, the work of both scholars serves to illustrate that the systematic oppression of citizens based on their gender identity is unjustifiable in a democratic society.

Drawing from existing literature and the data provided by the interviews conducted for this study, it became apparent that in order for true inclusion of transgender and non-binary faculty and staff to occur, a cultural shift will be required. The existence of non-discrimination policies that include gender identity as a protected trait go some way toward helping transgender and non-binary individuals feel safer on their respective campuses, yet the indications are that deeply embedded structural cisgenderism at institutions of higher learning are impacting the effectiveness of inclusion efforts. Training and education will be required for all stakeholders in order to promote a more expansive and equitable view of gender, and administrators must be prepared to lead a shift away from deeply embedded cisgender binary structural biases.

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Sarah Clay  
Librarian/Cataloger/Archivist

OBJECTIVE

To obtain a senior leadership position in an academic library at a research-focused institution of higher learning with particular interest in advancing recruitment and retention of marginalized and underrepresented populations. I am interested in joining an organization that recognizes the importance of creating an atmosphere of diversity, equity, and inclusion within their facilities and in their services and practices.

EDUCATION —

University of Mississippi  
**Ed.D.**, Higher Education  
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University of Southern Mississippi  
**MLIS** with Certificate in Archives and  
Special Collections, May 2015

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**MSS**, December 2009

RESEARCH  
INTERESTS —

- Experiences of transgender and non-binary higher education faculty and staff
- Gendered expectations in leadership

EXPERIENCE

*July 2021 - Present*

Librarian • Cataloger • Holmes Community College, Ridgeland

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I started at Holmes Community College's main campus in Goodman, MS in 2015 as an assistant librarian and head cataloger for all campuses. I was promoted to head librarian of that campus in 2018, and in 2021 I became the head librarian of Holmes Community College's Ridgeland Campus.

COMMUNICATION

"Black in America Series: The Revolutionary Era" (Exhibit)

Holmes Community College, October 2020

<https://news.holmescc.edu/black-in-america-series-the-revolutionary-era-exhibit-in-mcmorrough-library/>

AWARDS

Laws Innovation Award – 2020

Awarded to a University of Mississippi School of Education student who exhibits a commitment to innovating the field of education through research or practice.