

WHAT IS THIS DOCUMENT?	<p>This document contains the cases shown on MAP's equality map of federal interpretations of sex and extent to which discrimination based on gender identity and/or sexual orientation.</p> <p>Several federal laws prohibit discrimination based on sex, including Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963 in the employment context; Title IX for public and private K-12 schools and colleges and universities; the Equal Credit Opportunity Act; the Fair Housing Act; the Gender Motivated Violence Act; and others.</p>
HOW DO IT READ IT?	<p>Each sheet lists the cases' citations, venue in which it was decided (circuit court or district court), the states covered by the decision, the statute in question, the year of the decision, a small excerpt from or summary of the court's reasoning, and the link to a copy of the opinion. There are two sheets: one for cases about gender identity and sex discrimination and one for sexual orientation and sex discrimination.</p>
WHAT ABOUT THE MAPS	<p>The maps available on the Movement Advancement Project website currently only show the circuit court decisions, since district-level decisions are more frequently made and may differ by outcome within one circuit or even one state. The maps are available here: http://www.lgbtmap.org/equality-maps/federal-court-decisions</p>
WHAT IF I HAVE COMMENTS?	<p>Email Naomi Goldberg at naomi@lgbtmap.org. Thank you for everything you do to help make MAP's maps better.</p>
SOURCES	<p>Thank you to the American Civil Liberties Union, Lambda Legal, GLBTQ Legal Advocates and Defenders (GLAD), and Brynn Tannehill for their work on these cases and their analysis of the impact.</p>
CAUTION	<p>Two major cases have differences of interpretation among legal groups. Please read these cautions when interpreting the cases herein: <i>Etsitty v. Utah Transit Authority</i>, while explicitly denying sexual orientation claims has allowed sex stereotyping claims to proceed in the 10th circuit, since the opinion did not preclude those claims. In <i>Hively v. Community Tech</i>, which focused on sexual orientation discrimination, the opinion also states that claims of discrimination on the basis of gender identity would also be actionable under Title VII as sex discrimination, since they are a form of gender stereotyping.</p>

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Case	State(s)	Circuit	Statute	Pos/Neg	Date	Reasoning	Citation
Rosa v. Parks W. Bank & Trust Co	ME, MA, NH, RI		1 Equal Credit Opportunity Act	POS	2000	DICTA: A trans woman who was denied a loan application had a claim of sex discrimination with the court looked at Title VII jurisprudence	Rosa v. Park West Bank & Trust Co., 214 F.3d 213 (1st Cir. 2000)
Holloway v. Arthur Anderson Co.	AK, AZ, CA, GU, HI, ID, MT, NV, OR, WA		6 Title VII	NEG	1972	The Court adopted the "plain meaning" interpretation of the term "sex" and believed that the traditional notions of "male" and "female" were the intended meaning of Congress. Id. The Court also noted that although several bills were introduced, Congress failed to amend the Civil Right Act to prohibit discrimination based on sexual preference, an indication that Congress acknowledged transsexuals were not protected.	Holloway v. Andersen, 566 F.2d 659 (9th Cir. 1977)
Smith v. City of Salem	KY, MI, OH, TN		6 Title VII	POS	2000	Title VII prohibits discrimination against transgender individuals based on gender stereotyping	Smith v. City of Salem, 378 F.3d 566 (6th Cir. 2004)
Barnes v. City of Cincinnati	KY, MI, OH, TN		6 Title VII	POS	2000	A person who was demoted when his police department found out he cross-dressed after work (he was a transgender woman) had a valid claim of sex discrimination under Title VII	Barnes v. Cincinnati, 401 F.3d 729, 735 (6th Cir. 2005), cert. denied, 126 S. Ct. 624, (2005)
Myers v. Cuyahoga County	KY, MI, OH, TN		6 Title VII	POS	2006	The court found that she was terminated for legitimate reasons, but did acknowledge that a sex discrimination claim based on sex stereotyping could be successful in the right case.	Myers v. Vuyahoga County, 182 Fed. Appx. 510 (6th Cir. 2006)
Highland v. U.S. Dep't. of Ed.	KY, MI, OH, TN		6 Title IX	POS	2016	"Under settled law in this Circuit, gender nonconformity, as defined in Smith v. City of Salem, is an individual's "fail[ure] to act and/or identify with his or her gender... Sex stereotyping based on a person's gender non-conforming behavior is impermissible discrimination." "Discrimination on the basis of transgender and transitioning status is necessarily discrimination on the basis of sex, and thus the EEOC should have had the opportunity to prove that the Funeral Home violated Title VII by firing Stephens because she is transgender and transitioning from male to female."	Highland v. U.S. Dep't. of Ed., No. 16-4117 (6th Cir. 2016)
EEOC v. R.G. and G.R. Ulane v. Eastern Airlines, Inc	KY, MI, OH, TN		6 Title VII	POS	2018	DICTA: "homosexuals and transvestites do not enjoy title VII protections"	EEOC v. R.G. & G.R. Harris Funeral Homes, Inc., No. 14-2424 (6th Cir. 2018)
Ulane v. Eastern Airlines, Inc	IL, IN, WI		7 Title VII	NEG	1984	Same-sex harassment is actionable under Title IX if the harassment is based on sex / gender stereotypes, but NOT based on sexual orientation or "preference."	Ulane v. Eastern Airlines, Inc., 742 F.2d 1081 (7th Cir. 1984)
Doe v. City of Belleville	IL, IN, WI		7 Title VII	NEG	1997	Student "has sufficiently demonstrated the likelihood of success on his Title IX claim under a sex-stereotyping theory. Further, because the policy's classification is based upon sex... the school district did not provide a genuine and exceedingly persuasive justification."	Doe v. City of Belleville, 119 F.3d 563 (7th Cir. 1997)
Whitaker v. Kenosha Unified School District	IL, IN, WI		7 Title IX & Equal Protection Clause	POS	2017	"The Court of Appeals rejected her claim of sex discrimination, holding that Title VII does not encompass discrimination against transgender individuals."	Whitaker v. Kenosha Unified School District, No. 16-3522 (7th Cir. 2017)
Sommers v. Budget Mktg., Inc	AR, IA, MN, MO, NE, ND, SD		8 Title VII	NEG	1982	In sum, we conclude that Lewis has presented sufficient evidence to make out a prima facie case on her claims for sex discrimination" [based on the employer's reliance on sex stereotyping / dress code, etc"]	Sommers v. Budget Mktg., Inc., 667 F.2d 748 (8th Cir. 1982)
Lewis v. Heartland Inns	AR, IA, MN, MO, NE, ND, SD		8 Title VII	NEU	2010	Court affirms dismissal b/c employer didn't know that applicant was trans. But Court does state that Title VII allows for sex stereotyping claims.	Lewis v. Heartland Inns of Am., L.L.C., 591 F.3d 1033, 1038 (8th Cir. 2010)
Hunter v. UPS	AR, IA, MN, MO, NE, ND, SD		8 Title VII	NEU	2012		Hunter v. UPS., 697 F.3d 697 (8th Cir. 2012)
Voyles v. Ralph Davies Med. Ctr.	AK, AZ, CA, GU, HI, ID, MT, NV, OR, WA		9 Title VII	NEG	1978	"The court held that employment discrimination based on transsexuality does not violate Title VII."	Voyles v. Ralph Davies Med. Ctr, 403 F. Supp. 456 (N.D. Cal. 1975), aff'd 570 F.2d 354 (9th Cir. 1978)
Schwenck v. Hartford	AK, AZ, CA, GU, HI, ID, MT, NV, OR, WA		9 Gender Motivated Violence Act	POS	2000	DICTA: a transgender woman stated a claim of sex discrimination under the Gender Motivated Violence Act based on the perception that she was a "man who failed to act like one."	Schwenck v. Hartford, 204 F.3d 1187 (9th Cir. 2000)
Kastl v. Maricopa County College	AK, AZ, CA, GU, HI, ID, MT, NV, OR, WA		9 Title VII	POS	2009	The court held that it is unlawful to discriminate against transgender employees because they do not conform to an employer's expectations of sex stereotypes."	Kastl v. Maricopa County Coll., 325 Fed.Appx. 492 (9th Cir. 2009)
Etsitty v. Utah Transit Authority	CO, KS, NM, OK, UT, WY		10 Title VII & Equal Protection Clause	NEG	2007	"this court concludes transsexuals are not a protected class under Title VII"	Etsitty v. Utah Transit Authority, 502 F.3d 1215 (10th Cir. 2007)
Glenn v. Brumby	AL, FL, GA		11 Equal Protection Clause	POS	2011	Discrimination against transgender people is sex discrimination, because it involves sex stereotypes	Glenn v. Brumby et al., 724 F. Supp. 2d 1284 (N.D. Ga. 2010), aff'd, 663 F.3d 1312 (11th Cir. 2011).

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Case	State/Circuit	Statute	Pre/Post	Date	Reasoning	Citation	Link
Higgins v. New Balance Athletic Shoe Inc.	ME, MA, 1st	10(a) VI	2001	1999	"We regard Title VII as settled law that, as drafted and authoritatively construed, Title VII does not prohibit harassment simply because of sexual orientation."	Higgins v. New Balance Athletic Shoe, Inc., 194 F.3d 242 (1st Cir. 1999)	http://media.ca1.uscourts.gov/cgi-bin/getopn.pl?OPINION=99-1041.01A
Silva v. Siffard	ME, MA, 1st	10(a) VI	2001	2005	"NOT PRECEDENTIAL. Although we do not condone harassment on the basis of perceived sexual orientation, it is not, without more, actionable under Title VII."	Silva v. Siffard, No. 98-1499, 2000 WL 526573. *1 (1st Cir. 2000)	https://www.lexis.com/opinion/138893/vha-v-siffard
Franchina v. City of Providence	ME, MA, 1st	10(a) VI	2001	2018	"Permitting a plaintiff to bring a 'sex-plus' claim under Title VII where in addition to the sex charge, the plus factor is her status as a lesbian. The law is well-settled that Title VII and all claims to have reached the question the Supreme has ruled on since under Title VII because Title VII does not prohibit harassment of discrimination because of sexual orientation."	Franchina v. City of Providence, No. 16-2401 (1st Cir. 2018)	http://media.ca1.uscourts.gov/pdf/opinion/16-2401P-01A.pdf
Simonten v. Runyon	CT, NY, VI	10(a) VI	2001	2000	"That, to the extent that the alleged discrimination based upon the defendant's decision cannot satisfy the first element of a prima facie case under Title VII because the statute does not recognize homosexuals as a protected class."	Simonten v. Runyon, Inc., 125 F.Supp.2d 1222 (2nd Cir. 2000)	https://scholar.google.com/scholar_case?case=5718803748265548418&hl=en&as_scd=6&as_vis=1&oi=scholar
Dawson v. Bumble & Bumble	CT, NY, VI	10(a) VI	2001	2005	"In sum, gay, lesbian, and bisexual individuals do not have less protection under Price Waterhouse against traditional gender stereotype discrimination than do heterosexual individuals. Simonten and Dawson merely hold that being gay, lesbian, or bisexual, standing alone, does not constitute nonconformity with a gender stereotype that can give rise to a cognizable gender stereotyping claim. The gender stereotyping allegations in Christiansen's complaint are cognizable under Price Waterhouse and our precedents. Christiansen alleges that he was persecuted by his supervisor as a retaliatory and subordinate and that he was harassed for these reasons."	Dawson v. Bumble & Bumble, 198 F.3d 1213 (2nd Cir. 2005)	https://www.courtlistener.com/opinion/78252/dawn-dawson-v-bumble-bumble/?type=0&q=Dawson+v.+Bumble+Bumble&page=0&order_by=score_desc&stat_precedential=on
Christiansen v. Omnicom Group	CT, NY, VI	10(a) VI	2001	2017	"In sum, gay, lesbian, and bisexual individuals do not have less protection under Price Waterhouse against traditional gender stereotype discrimination than do heterosexual individuals. Simonten and Dawson merely hold that being gay, lesbian, or bisexual, standing alone, does not constitute nonconformity with a gender stereotype that can give rise to a cognizable gender stereotyping claim. The gender stereotyping allegations in Christiansen's complaint are cognizable under Price Waterhouse and our precedents. Christiansen alleges that he was persecuted by his supervisor as a retaliatory and subordinate and that he was harassed for these reasons."	Christiansen v. Omnicom Group, Inc., No. 16-748 (2d Cir. 2017)	http://law.justia.com/cases/federal/appellate-courts/cas/16/748/16-748-2017-03-27.html
Zarda v. Altitude Express	CT, NY, VI	10(a) VI	2001	2018	"A worker's sex is necessarily a factor in discrimination based on sexual orientation."	Zarda v. Altitude Express, No. 15-7771 (en banc) (2d Cir. 2018)	http://www.justia.com/cases/federal/appellate-courts/cas/15/777/15-777-2018-04-18.html
Ribby v. Philadelphia Coca Cola Bottling Co	DE, NJ, PA	10(a) VI	2001	2000	"We conclude that any harassment is not actionable under Title VII, as it constitutes discrimination on the basis of sexual orientation, not on sex."	Ribby v. Phila. Coca Cola Bottling Co., 200 F.3d 212 (3d Cir. 2001)	http://www2.ca3.uscourts.gov/opinion.html?panel=1&id=1361131
Kay v. Independent Blue Cross	DE, NY, PA	10(a) VI	2001	2000	"NOT PRECEDENTIAL. Title VII does not prohibit discrimination based on sexual orientation."	Kay v. Independent Blue Cross, 842 Fed. Appx. 48 (3d Cir. 2000)	http://qtda.cornell.edu/law/electronic/td/cg/tericoa-1836/notes/notes/circuit_2005
Provet v. Wisn. Bus. Forms	DE, NY, PA	10(a) VI	2001	2000	"Sexual orientation claims are not actionable under Title VII - only sex stereotyping."	Provet v. Wisn. Bus. Forms, Inc., 135 F.3d 1212 (3d Cir. 2000)	https://scholar.google.com/scholar_case?case=362364034214921588&hl=en&as_scd=6&as_vis=1&oi=scholar
Hopkins v. Baltimore Gas and Electric	MD, DC, 2d	10(a) VI	2001	1996	"Similarly, Title VII does not prohibit conduct based on the employer's sexual orientation, whether homosexual, bisexual, or heterosexual."	Hopkins v. Baltimore Gas & Elec. Co., 77 F.3d 245 (4th Cir. 1996)	http://openurl.org/77736/745/hopkins-v-baltimore-gas-and-electric-company
Burns v. Gulf Oil	CA, DC, 2d	10(a) VI	2001	1979	"Change for homosexuals is not prohibited by Title VII."	Burns v. Gulf Oil, No. 78-2033 (4th Cir. 1979)	https://scholar.google.com/scholar_case?case=487370599152759893&hl=en&as_scd=31
Wittmer v. Philip	CA, DC, 2d	10(a) VI	2001	2010	"Case was brought by a transgender job applicant alleging sex discrimination under Title VII. Court affirmed 9/19 ruling in Burns."	Wittmer v. Philip S&S Co., No. 18-22515, 2018 WL 438405 (5th Cir. 2018)	https://openurl.org/1822515/273/wittmer-v-philip-s&s-co-inc
Vickers v. Fairfield Medical Center	DE, NY, PA	10(a) VI	2001	2008	"We conclude that the threat of retaliation under Price Waterhouse is not enough to encompass Title VII."	Vickers v. Fairfield Med. Ctr., 413 F.3d 759 (3d Cir. 2008)	https://scholar.google.com/scholar_case?case=95497142264305913&hl=en&as_scd=6&as_vis=1&oi=scholar
Nabony v. Poldosky	DE, NY, PA	10(a) VI	2001	1998	"School district can be held liable for not instituting a student non-sexual abuse policy."	Nabony v. Poldosky, Inc., 135 F.3d 1212 (3d Cir. 1998)	https://scholar.google.com/scholar_case?case=2307869201088201172&hl=en&as_scd=6&as_vis=1&oi=scholar
Dox v. City of Belleville	IL, IN, WI	10(a) VI	2001	1989	"Title VII harassment is actionable under Title IX if the harassment is based on sex / gender stereotypes, but NOT based on sexual orientation or gender identity."	Dox v. City of Belleville, 119 F.3d 563 (7th Cir. 1997)	https://scholar.google.com/scholar_case?case=2307869201088201172&hl=en&as_scd=6&as_vis=1&oi=scholar
Hammer v. St. Vincent Hosp. & Health Care Ctr., Inc.	IL, IN, WI	10(a) VI	2001	2000	"Discrimination based solely upon a person's sexual preference or orientation (and not one's sex) is not an unlawful employment practice under Title VII."	Hammer v. St. Vincent Hosp. & Health Care Ctr., 224 F.3d 703 (7th Cir. 2000)	https://openurl.org/224703/703/hammer-v-st-vincent-hospital-and-health-care-center
Spearman v. Ford Motor Co.	IL, IN, WI	10(a) VI	2001	2000	"Title VII does not, however, provide for a private right of action based on sexual orientation discrimination."	Spearman v. Ford Motor Co., 231 F.3d 1080 (2000)	https://www.courtlistener.com/opinion/776833/hammy-v-schroeder-a-hamilton-school-district/
Schroeder v. Hamilton School District	IL, IN, WI	10(a) VI	2001	2000	"The VII does not, however, provide for a private right of action based on sexual orientation discrimination."	Schroeder v. Hamilton School District, 283 F.3d 1048 (7th Cir. 2000)	https://www.courtlistener.com/opinion/776833/hammy-v-schroeder-a-hamilton-school-district/
Hammy v. Weyawewa Mills Products, Inc.	IL, IN, WI	10(a) VI	2001	2000	"The restrictions of Title VII have not been extended. However, to assert claims of harassment based on an individual's sexual orientation? DUELY. After reading brief by EEOC, court denied a petition for rehearing the plaintiff's case, but affirmed its original decision to dismiss."	Hammy v. Weyawewa Mills Products, Inc., 132 F.3d 1058, 1062 (7th Cir. 2000)	http://www.findlaw.com/va/7th-circuit/10164668.html
Muhammad v. Caterpillar Inc.	IL, IN, WI	10(a) VI	2001	2014	"Language that had stated sexual orientation-related discrimination claims are not actionable under Title VII."	Muhammad v. Caterpillar Inc., 175 F.Supp.2d 1212 (7th Cir. 2014)	https://scholar.google.com/scholar_case?case=1888230250256679483&hl=en&as_scd=6&as_vis=1&oi=scholar
Howly v. Ivy Tech Community College	IL, IN, WI	10(a) VI	2001	2016	"Harassment based solely on a person's sexual orientation is not unlawful employment discrimination under Title VII."	Howly v. Ivy Tech Cmty. Coll. of Ind., No. 15-1701 (7th Cir. 2017) (en banc)	https://scholar.google.com/scholar_case?case=5849180708854141534&hl=en&as_scd=6&as_vis=1&oi=scholar
Williams v. A.G. Edwards & Sons	IL, IN, WI	10(a) VI	2001	1988	"We conclude today that discrimination on the basis of sexual orientation is a form of sex discrimination."	Williams v. A.G. Edwards, 852 F.2d 1011, 1012, 852 F.2d 1011 (7th Cir. 1988)	http://www.podiatry.com/776-0000030-3648-01-19-williams-ag-edwards-852-f-2d-1011-1988
Wolfe v. Fayetteville, Arkansas, School District	AR, IA, MN	10(a) VI	2001	2011	"A public school student seeking to hold the school district liable for sexual harassment under Title IX must show that the harassment he suffered was motivated by his sex or his failure to conform to gender stereotypes."	Wolfe et al. v. Fayetteville, Arkansas School District et al., No. S-2008-05205, Document 27 (W. D. Ark. 2011)	http://findlaw.com/va/8th-circuit/1576950.html
Nichols v. Asteca Restaurant	AK, AZ, CA	10(a) VI	2001	2000	"At its essence, the systematic abuse directed at Sanchez reflected a belief that Sanchez did not act as a man should act. We conclude that this belief about who Sanchez is closely related to gender."	Nichols v. Asteca Restaurant, Inc., 193 F.Supp.2d 1212 (9th Cir. 2001)	https://scholar.google.com/scholar_case?case=7453544668030008&hl=en&as_scd=6&as_vis=1&oi=scholar
Rene v. MGM Grand Hotel	AK, AZ, CA	10(a) VI	2001	2000	"We would hold that an employee's sexual orientation is irrelevant for purposes of Title VII. It neither provides nor precludes a cause of action for sexual harassment. That the harasser is or may be motivated by hostility based on sexual orientation is simply irrelevant, and neither provides nor precludes a cause of action."	Rene v. MGM Grand Hotel Inc., 195 F.Supp.2d 1212 (9th Cir. 2001)	https://scholar.google.com/scholar_case?case=1659937611353219218&hl=en&as_scd=6&as_vis=1&oi=scholar
Medina v. Income Support Division New Mexico	CO, KS, NH	10(a) VI	2001	2005	"We conclude Mr. Medina's argument in arguing that he was discriminated against because she is a heterosexual. Title VII's protections, however, do not extend to harassment due to a person's sexuality."	Medina v. Income Support Division, New Mexico, 413 F.3d 1131, 1136 (10th Cir. 2005)	http://www.ca10.uscourts.gov/opinion/04/04-2166.pdf
Evans v. Georgia Grl. Hosp.	GA, FL, GA	10(a) VI	2001	2017	"Employment discrimination based on sexual orientation is not actionable under Title VII."	Evans v. Georgia Grl. Hosp., No. 14-25242 (11th Cir. 2017)	http://media.ca11.uscourts.gov/opinion/pdf/14-25242-11th-cir.pdf

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