

Fraternal Health & Safety Initiative Resource

Transgender Membership Policy Guidance



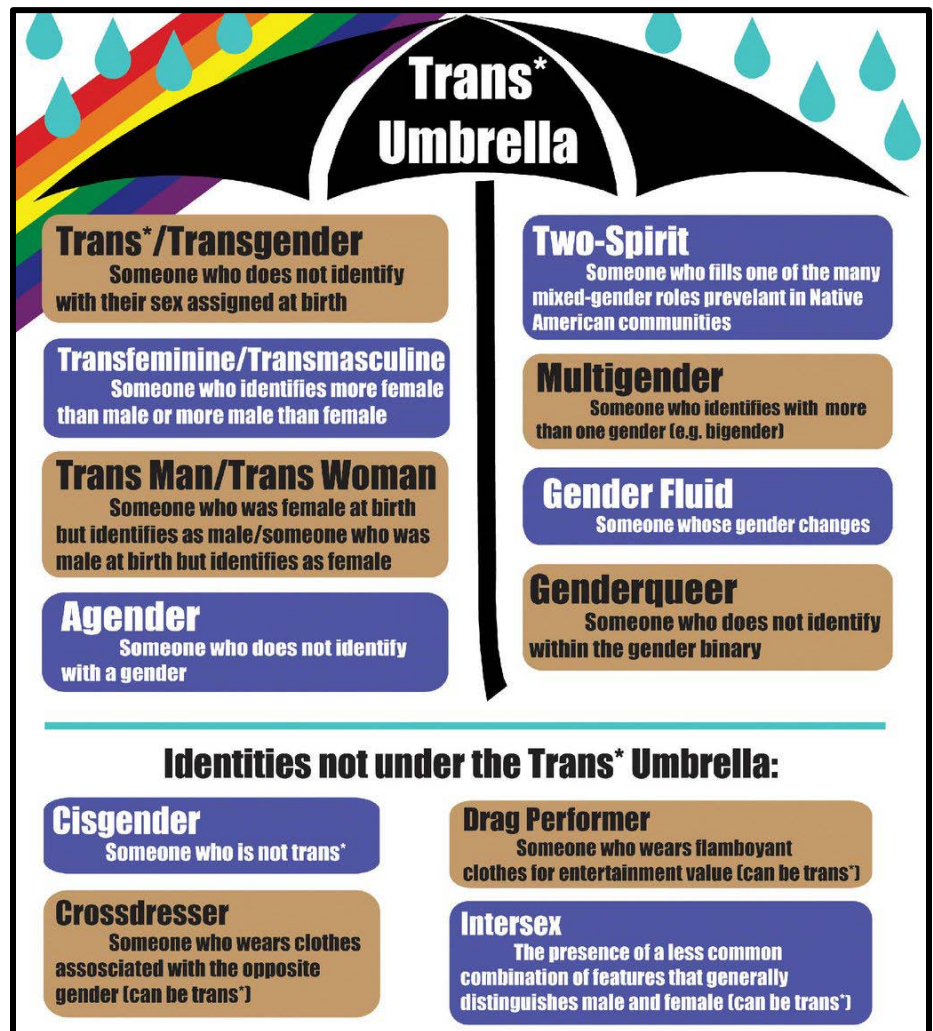
BACKGROUND

Advocacy and policy changes are occurring regarding the rights and protections of transgender persons, including college/university students. Increasingly, higher education institutions are adding language to their nondiscrimination policies to include gender identity as a protected classification, prohibiting recognized student organizations from discriminating against students who identify as transgender. Therefore, it is important for fraternal organizations to determine their position, and ensure their policies are updated to reflect whether membership can be extended to transgender individuals. Though, a number of fraternal organizations have passed transgender inclusive policies, there is no clear direction within the fraternal movement about whether to extend membership to this population. The transgender community is becoming more open and vocal. In truth, it is a matter of time before a transgender student seeks membership, if it has not happened already. As shared, some organizations have established a policy for inclusion, others for exclusion. With that said, it is imperative that fraternal organizations review language in current policies, and governing documents, to ensure the organization’s position is clear on eligibility for membership for transgender individuals. Many higher education institutions are allowing transgender individuals to sign up for formal recruitment, as that process is likely controlled by the institution and rights provided as a student. It is, also, important to ensure that clear messaging is provided to current chapter members. There are reported instances of chapters extending an invitation for membership to a transgender individual and contacting the inter/national organization for guidance afterward.

UNDERSTANDING THE TERM

“TRANSGENDER”

“Transgender” is an umbrella term used to describe individuals whose sex, gender identity, or gender expression either does not or is perceived not to match the physical sex they were assigned at birth (Greenberg & Herald, 2005; Fielding & Pettitt, 2008, Coleman et al., 2011; Arrowsmith et al., 2013). Transgender individuals commonly experience the mismatch between the sex their brain signals they are (brain sex), and the body parts they have that define their sex (physical sex). “This



mismatch may--but does not always--develop into “gender dysmorphia,” which is a ‘discomfort or distress that is caused between a person’s gender identity and that person’s sex assigned at birth. . . (Tran, 2012). Put simply, gender dysmorphia is the feeling that the individual should be the “other sex” (i.e., feeling like a male, but being born into a female body)--that something is wrong with the physical sex assigned to them at birth. Some people seek treatment to alleviate the distress caused by this mismatch, a process commonly known as “transitioning.” This process may include legally changing one’s name and identity documents, developing a gender expression that aligns with one’s gender identity, beginning hormone therapy, starting psychotherapy, and/or undergoing surgery (Coleman et al.).

TRANSGENDER MEMBERSHIP AND TITLE IX

Many fraternal organization leaders have struggled with reconciling the Title IX exclusions provided with accepting transgender individuals into membership. The U.S. Departments of Justice and Education have made it clear that Fraternal Organizations that take a stance on the issue of Transgender membership will not violate Title IX and jeopardize their status as single-sex, private organizations.

The U.S. Departments of Justice and Education issued an updated Dear Colleague Letter on February 22, 2017 indicating that they were withdrawing the statements of policy and guidance reflected in a prior Dear Colleague Letter dated May 13, 2016. The previous letter made it clear that Fraternal Organizations that adopt a policy concerning Transgender membership will not violate Title IX and jeopardize the “protection” afforded them as single-sex, private organizations. The February 22, 2017 letter does not specifically reference this guidance, it is important to note that there is still legal uncertainty surrounding this topic. Title IX governs colleges and universities, not Fraternal Organizations.

As of this time, many states have added “gender identity” to their nondiscrimination requirements. *(See <https://www.aclu.org/know-your-rights/transgender-people-and-law> “California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Washington, and the District of Columbia all have such laws. Their protections vary. For example, Nevada’s law bans discrimination in employment, housing, and public accommodations like restaurants, hospitals, and retail stores; Maine’s law covers those categories plus access to credit and education. At least 200 cities and counties have banned gender identity discrimination, including Atlanta, Austin, Boise, Buffalo, Cincinnati, Dallas, El Paso, Indianapolis, Kansas City, Louisville, Milwaukee, New Orleans, New York City, Philadelphia, Phoenix, Pittsburgh, and San Antonio, as well as many smaller towns. The governors of Indiana, Kentucky, Michigan, New York, and Pennsylvania have issued executive orders banning discrimination against transgender state workers. Some cities and counties have also protected their transgender public employees through local ordinances, charter provisions, or other means.”)*

In their article, *Title IX Empowers Fraternities to Include Transgender Members* published in AFA Essentials, May 2013, Nathan Arrowsmith and Stevie Tran shared additional guidance on this topic. They offered for institutions to retain federal funding under Title IX, the institution must recognize only social fraternities and sororities that have an active membership consisting primarily of “students in attendance at an institution of higher education.” Title IX’s language says nothing about fraternal organizations and their single-sex status. Importantly, it does not impose any requirement on fraternities and sororities to remain single-sex to benefit under Title IX’s exemption. It simply permits an institution’s recognition of single-sex fraternities and sororities without violating Title IX without further specification. In other words, institutions would be more likely to lose federal funding by recognizing a fraternal organization with members who are not enrolled at an institution of higher education than they would by recognizing a fraternal organization that admits transgender members.

Therefore, Title IX’s statutory language is not as narrow as fraternal organizations may believe. In fact, the Girl Scouts of America stated that they welcome “all girls” to grow in their community, and through their mission. This is the first social circle that many young women and girls are exposed to related to notions of service, social activities, and personal development. All aspects of membership decisions--including whether or not to admit transgender students--remain solely with the fraternal organization.

Tran and Arrowsmith offered some guidance in the November 2014 Issue of *Fraternal Law* summarized below:

“Risks” of Transgender Inclusion

Adoption of a trans-inclusive policy may alienate individuals within the organization’s current membership who object to the inclusion of transgender members. The organization would not be alone in choosing to extend the invitation for membership to transgender individuals, as previously referenced. The law is continuing to evolve in this area resulting in not every institution using the same standards to determine an individual’s sex and gender.

“Risks” of Transgender Exclusion

Many institutions are adopting nondiscrimination policies that specifically forbid discrimination based on gender identity, or expression. If a fraternal organization adopts a trans-exclusive policy, it is possible that an institution may interpret the policy as a conflict with their nondiscrimination policy. Several states and municipalities are also enacting laws that forbid discrimination on the basis of gender identity Tran and Arrowsmith, along with others, offer that fraternal organizations have encountered difficulties in arguing the First Amendment freedom of association rights as a means of restricting membership. Additionally, the organization may encounter negative reactions from members, universities/colleges, media and national organizations that advocate for transgender rights. Organizations that base their specification of gender on government documentation should be aware that the criteria vary from state-to-state on the necessary requirements to change one’s gender on a driver’s license, as an example.

Risks of Doing Nothing

In the absence of action on this topic, fraternal organizations risk weakening the strength of their governing documents and First Amendment rights creating numerous interpretations of the organization’s policies. Without guidance and specificity, undergraduate members may make membership decisions on the organization’s behalf—decisions with which the organization, as a whole, may disagree. This can also create inconsistencies that could open the organization up to litigation due to ununiformed positions and/or issues with interpreting the fraternal organization’s governing documents.

With expansion efforts, organizations should be aware that institutions have varying criteria for student gender classification. Therefore, if the organization requests a list of all male students with a specified GPA minimum for outreach, the list could include transgender students who self-identify as male.

Timothy Burke, of Manley Burke Law Firm, articulated that the issue of transgendered membership is one that continues to develop. He shared that it is imperative for fraternal leaders to stay abreast of the developments and recognize there are varying opinions. Mr. Burke reflected that there is little to no case law guidance as yet. Though, in 2010, Burke offered the following guidance in the wake of the Supreme Court’s decision in *Boy Scouts of America v. Dale, 530 U.S. 640 (2000)*:

The bottom line is that membership selection decisions should be made in a positive manner on the basis of the criteria contained in the organization’s governing documents. Denying membership solely on the basis of some broad category into which an individual is pigeonholed is an invitation to legal trouble.

Advocates use Burke’s commentary as the basis for a parallel assessment for transgender membership. It is up to the leaders and members of each fraternal organization to determine the next steps in tackling this issue.

Recommendations:

- Determine how the *Fraternal Organization’s* policy will be specified, knowing it may likely require policy changes to the organization’s governing documents either way. Think about how the *Fraternal Organization* will educate the membership prior to any necessary vote.
- Educate members at all levels on transgender issues. This type of decision requires a clear understanding of the associated issues and terminology. Remember, in order to be effective, the *Fraternal Organization’s* policy should make it explicitly clear who is eligible for membership, as well as maintaining his/her membership. In other words, what happens if members question their identity and begin to transition while an active member.

- Determine whether the *Fraternal Organization* will, or will not, extend membership to transgender students and at what stages. Again, an operational policy should expressly state, in accordance with the *Fraternal Organization's* history and values, how transgender individuals will be treated at each stage of membership.
- Begin, and continue, educating the *Fraternal Organization's* membership and leadership after a policy is implemented. Members and leaders should be able to articulate and explain the policy to potential new members and campus-based professionals. If members do not understand the policy, or transgender issues, the policy will not be effective. Identify subject matter experts who can train members on the reasons for a policy change and the appropriate terminology.

DEFINING GENDER IN ORGANIZATION DOCUMENTS

There are two aspects of the organization's policy, or statement, that need to be addressed. The language utilized needs to be clear when defining the criteria for initially affiliating and maintaining membership within the fraternal organization. Jessica Pettitt, advocate, speaker and author on the topic of trans inclusion, offers that it may be easier to consider that most fraternal organizations are actually single-gender. Pettitt argues that in all likelihood organizational leaders do not know the hormonal, chromosomal or genitalia make up of its members, nor do they want to make that a part of the new member process. It is certainly possible for a transgender person to have transitioned prior to affiliation, or seek to afterwards.

For organizations that wish to be clear that transgender individuals are ineligible for membership **unless** they are defined as the single gender of the organization to which they aspire to membership, then policy language could read as follows:

- Policy defines "male" as "any individual who possesses valid government documentation such as a birth certificate, passport or driver's license that classifies him as male and his expression or the perceived expression of his gender is aligned."
- However, members will remain members, even if they decide to transition after initiation and/or graduation. *NOTE: Dave Westol provided guidance in this area in 2004 to indicate that removing an individual for "cause" or "conduct unbecoming" on the basis of having transitioned is likely to open the organization to litigation.*
- This Fraternity elects to utilize a narrow definition of legal gender designation in an effort to maintain the single-sex nature of the organization.

Again, organizations should be aware that this approach is still being tested and no firm case law exists, as yet. In the example of the NCAA, this type of definition was tested and failed to be upheld with respect to the cornerstone of participation in sports--ones' athletic ability to perform. Other types of student organizations have also struggled with maintaining selective criteria on the basis of First Amendment protections under freedom of association due to exclusivity. In other words, how discriminate are organization chapters being in whom they extend invitations to membership on the basis of the values and purpose of the organization.

For organizations that wish to be **trans-inclusive**, but still wish to protect the single-sex character of the organization, it is important to understand how gender is defined in their organizational documents. Trans inclusive definition of gender in membership eligibility:

- Policy defines "male" as "any individual who self-identifies as male, regardless of his assigned sex at birth or his expression or the perceived expression of his gender."
- Members will remain members, even if they decide to transition after initiation and/or graduation.
- Statement on Title IX: Federal and state law provides no clear and consistent definition of gender. Therefore, the Fraternity adopts the most expansive policy under present law in order to prevent exclusion and/or discharge of transgender members regardless of legal gender designation. This policy is not intended to change the all-male character of the Fraternity, nor waive the Fraternity's rights under Title IX.

EXAMPLE PROCESS OF ADDRESSING THE ISSUE: LAMBDA CHI ALPHA INTERNATIONAL FRATERNITY

Process & Considerations

The Board of Lambda Chi Alpha International Fraternity, known as The Grand High Zeta, addressed this issue in a ruling that became effective in April of 2015. They framed their rationale for their decision by addressing two important questions:

1. Is an individual who was assigned female at birth but self-identifies as male before association or initiation eligible to join our Fraternity?
2. Is an individual who was assigned male at birth and is already a member of our Fraternity eligible to remain so if she self-identifies as female after initiation?

To answer these questions, the Board consulted the Fraternity's governing documents to discern how membership was discussed. In this case, the documents defined membership as follows:

[Membership Requirements for All Initiates] provides:

Only the following shall be eligible for membership in Lambda Chi Alpha: College men of good moral character . . . (*emphasis added*)

[Rights and Duties of Members] provides:

Membership shall be for life, and shall be terminated only by death, resignation, or expulsion.

[Membership Requirements for All Initiates] provides:

The General Fraternity is and shall remain the sole and final authority with respect to the requisites for membership in Lambda Chi Alpha.

[Duties of the Grand High Pi (international chancellor)] provides:

He shall interpret the Laws of the Fraternity through official rulings when requested to do so, which interpretations are not subject to Article 9, Section 5 of this *Constitution*.

[Revocation of Orders] referred to above provides:

Orders of the Grand High Zeta may be revoked by a majority vote of the General Assembly.

Official Ruling

With a clear understanding of how their organization documents defined membership criteria, The Grand High Zeta concluded that a college "man," for purposes of their laws, was any individual who, at the time both of his association and his initiation, self-identified as male, regardless of his assigned sex at birth or his expression or the perceived expression of his gender. Any such individuals should be considered on an equal basis with all other candidates for association and initiation, and any discrimination against them on the basis of their gender identity would be a violation of their Mandatory Resolution on Discrimination.

Members are members for life under Article 4, Section 6 unless they resign or are expelled for disciplinary reasons. Accordingly, members will remain members even if they decide to transition after initiation. In other words, a person who was assigned male at birth and who has been initiated into the Fraternity but who later self-identifies as female, would not lose the benefits of membership in Lambda Chi Alpha. Later gender identification as female is not, standing alone, grounds for discipline.

They concluded this ruling in respect to gender identity does not in any way diminish the single sex nature of the Fraternity, nor does it waive any rights the Fraternity may have under Title IX.

MORE THAN JUST A POLICY

Addressing gender identity within the *Fraternal Organization's* membership policies is important for fraternities and sororities. However, doing so does not resolve other issues that may arise which will impact one's membership experience. Therefore, *Fraternal Organizations* are encouraged to consider these additional impacts, or implications.

Considerations if the Organization Decides to be Trans-inclusive

- **Clarity of the Organization's Position**
 - a. Is the *Fraternal Organization's* definition of membership eligibility available on the inter/national website?
 - b. How is that information communicated clearly to the chapter leaders and general members?
- **Conferences and Organizational Events:**
 - a. *Presentations.* Are the presenters willing or able to address a request for a change of pronouns? Some *Transgender* members have requested facilitators use "they, them, or their" rather than "he, him and his".
 - b. *Registration.*
 - i. Are registrants asked to identify their gender?
 - ii. Is there a way to identify a registrant as transgender?
 - c. *Housing.*
 - i. How does the *Fraternal Organization* play a role in room placement at events/conferences?
 - ii. Does the *Fraternal Organization* notify the roommates if they are matched transgender and gender-conforming?
 - iii. How is the *Fraternal Organization* prepared to address the request of an individual member paired with a transgender member for a change of assignment?
 - d. *Restrooms.*
 - i. Does the *Fraternal Organization's* policy accommodate of transgender members as it relates restroom choices/options?
 - ii. Often, hotels will temporarily adjust public restrooms to accommodate for large, same-sex *Fraternal Organization*. What other adjustments need to be made?
- **House Corporations:**
 - a. Since most chapter facilities are controlled by a separate legal entity, not by the *Fraternal Organization*, what specifications are being requested unilaterally?
 - b. What educational guidance do local house corporation members need about the legal rights of *Transgender* members when it comes to housing?
 - c. What, if any, accommodations need to be made for a transgender member to live in the chapter facility?
 - d. If there is a live-in requirement for the facility, what happens if a *Transgender* member wishes to move in, but cannot be accommodated?
 - e. What is the *Fraternal Organization* leadership prepared to do if a house corporation refuses to accommodate a *Transgender* member?
- **Ritual:**
 - a. Are there any components of ritual that may place a *Transgender* member who has not had transition surgery to be placed in a compromised position?
 - b. Has any guidance/accommodation been shared with chapters?
- **Recruitment & Membership Education:**
 - a. What if a chapter determines that it does not agree with the *Fraternal Organization's* position--how will the *Fraternal Organization* handle this issue?
 - b. What guidance and education is the *Fraternal Organization* prepared to provide to members, both undergraduate and alumni/ae, on this topic?
 - c. Are there any alterations to the new member education, or ongoing member education that need to be adjusted based upon the inclusion of *Transgender* members?

Considerations if the Organization Decides to be Trans-exclusive

- **Clarity of the Organization's Position**
 - a. Is the *Fraternal Organization's* definition of membership eligibility available on the inter/national website?
 - b. How is that information communicated clearly to the chapter leaders and general members?
- **Conferences and Organizational Events:**
 - a. *Presentations.* What happens if an attendee makes a request for a change of pronouns? If a *Transgender* member unknown to the *Fraternal Organization* makes a request for facilitators to use "they, them, or their" rather than "he, him and his", what action(s) do you wish them to take?
 - b. *Registration.*
 - i. Are registrants asked to identify their gender?
 - ii. Is there a way to identify a registrant as transgender?
 - iii. How will the *Fraternal Organization* address if a transitioned transgender member, unknown to the organization, registers and arrives to the event? Is the organization prepared to accommodate him/her?
 - c. *Housing.*
 - i. How does the *Fraternal Organization* play a role in room placement at events/conferences?
 - ii. How is the *Fraternal Organization* prepared to address the request of an individual member paired with the unknown transgender member for a change of assignment?
- **Recruitment & Membership Education:**
 - a. Has any guidance/accommodation been shared with chapters on how to handle inquiries from Fraternity & Sorority Life, or other Student Affairs Staff?
 - b. What instructions were issued to chapter leaders and general members about the *Fraternal Organization's* position on the topic and subsequent rationale?
 - c. How is the *Fraternal Organization* providing guidance on what to do if a member reveals their transgender identity after an invitation for membership is extended? An invitation is accepted? Post-initiation? At the alumni chapter level?
 - d. What sort of emphasis is placed on selectivity and exclusivity of membership (as referenced by Mr. Burke above)?

CONCLUSION

As referenced, this topic is one that continues to evolve within the fraternal movement. There is no clear guidance on many of the questions for consideration that are defined as "best practice". Therefore, organizations are encouraged to ensure they follow their procedures outlined in the governing documents and associated policies. Regardless of the outcome of the organization's decision, the leadership and staff is encouraged to make outreach to peers for assistance in formulating any new, associated standards. Additionally, each organization is encouraged to consult with its internal general counsel, or attorney to ensure that decisions and materials distributed do not expose the organization to additional risk, or liability exposure. James R. Favor & Company Staff continue to be available to assist in the process.

SUBJECT MATTER EXPERTS

Nathan Arrowsmith, associate at the Phoenix law firm of Osborn Maledon, PA, narrowsmith@omlaw.com

Timothy M. Burke, partner at Manley Burke, tburke@manleyburke.com

Jessica Pettitt, speaker, author and consultant, jess@iamsocialjustice.com

Beth Stathos, General Counsel for Chi Omega Fraternity, BStathos@ChiOmega.com

Stevie V. Tran, attorney and consultant, stevie.van.tran@gmail.com

ORGANIZATION POINTS OF CONTACT ON THE TOPIC

Lambda Chi Alpha, Lynn Chipperfield, General Counsel, lchipperfield@lambdachi.org

Sigma Phi Epsilon, Archie Messersmith, Director of Volunteer Services & Campus Engagement, archie.messersmith@sigep.net

Appendix I: Sample Policy Statements

DELTA GAMMA FRATERNITY POSITIONAL STATEMENT ON NON-DISCRIMINATION

Delta Gamma Fraternity is a private social organization. Members are selected in accordance with the rules and regulations of the local College Panhellenic and the Delta Gamma Constitution. Procedures include a series of meetings, social gatherings and interviews by members of the Fraternity. Collegians select members from among the women students fully matriculated on the same college or university campus where a collegiate chapter of Delta Gamma Fraternity exists. Non-collegiate members may be approved by the governing Council of Delta Gamma Fraternity if they have fulfilled the constitutional requirements listed in Article IV.

Delta Gamma Fraternity does not discriminate in its membership selection on the basis of race, religious affiliation, color, creed, national origin, sexual orientation, marital status, or physical disability. Those selected for membership in Delta Gamma must have good scholarship, be of good character and standing, have an interest in activities that will enhance the academic atmosphere at the college or university, and have a sincere desire to contribute to the work of Delta Gamma.

Delta Gamma is committed to diversity and does not discriminate on the basis of race, religious affiliation, color, creed, national origin, sexual orientation, marital status, physical disability or other characteristics protected by state or federal law. Membership is open to women and transgender persons who identify themselves as women. Males are excluded from membership, as provided by Title IX, 20 U.S.C. §1681(a)(6)(A), which pertains to social fraternities and sororities.

DELTA LAMBDA PHI POLICY STATEMENT

Joel Corcoran, General Counsel and Vice President for Legal Affairs (Centaur's Yell, Volume 2001-3).

Last July, our National Convention approved sweeping changes to our membership policies regarding transgender members and adopted a proclamation of intent for doing so. Adopting these directives capped a two-year effort to review DLP's membership policies, engage in deep discussions about gender identity and expression, and assess all of the ethical, moral, and legal dimensions of the issues. On the surface, the changes seem rather slight, but I believe these changes will profoundly impact DLP and could also dramatically advance the civil rights for transgender people overall.

The revisions that National Convention enacted essentially boil down to two core changes in our membership policies. First, DLP affirmed that we are a "fraternity of men," but clarified that we define "men" according to gender identity, not physiological sex. In fact, anyone who identifies himself as a man during his college experience or at the time of initiation is eligible to join DLP (assuming he meets all other selection criteria). Second, National Convention adopted the position that we would never request any member to offer documentary proof that he is a man under any circumstances, even if we face some external legal challenge.

DLP has always admitted and accepted transgender members. We've admitted transgender men over the years and stuck by the adage of "once a Brother, always a Brother", even when some of our alumni later identified as women. In 2003 and 2004, we took the step of affirmatively stating that transgender men were admissible and would not question the gender of any member, but added one qualifier: if anyone outside the fraternity ever challenged the sex of a member, the fraternity had the option of requiring some objective proof of sex (e.g., a driver's license or birth certificate). We also left unanswered the question of what to do about fraternity members who were initiated as men, but later became transgender women.

This year, National Convention brilliantly turned the question on its head. We essentially conflated sex discrimination and gender discrimination together. We adopted the view that a man's identity is not dependent only on biology, it is a complex mix of factors. We are no longer a "single-sex fraternity," we are a "fraternity of men" because what makes a man is more than merely DNA, cells, and tissues.

From a legal perspective, we have adopted an emerging view in sex discrimination law, but pushed it further as a matter of civil rights and social justice in following our mandate to lead in determining the rights and privileges of individuals in society. Some – but not nearly all – courts have adopted the view that discrimination on the basis of gender identity is a form of discrimination on the basis of sex. This view essentially says that a person’s gender identity influences an observer’s perception of sex; if that observer illegally discriminates against that person because she is actually a woman, or simply because he perceives her as a woman, the legal harm is the same. DLP took that view several steps further and simply said that perception doesn’t matter. Illegal discrimination is wrong – period – regardless of whether that discrimination is based on a person’s sex, gender identity, or gender expression. A person’s worth, dignity, and character are no more dependent on his gender identity or gender expression than his biology.

The directives that National Convention set down will go into effect this January. We have made our presence known by adopting these policies, and we will soon ***Make Our Presence Make a Difference*** in the lives of many, many people.

LAMBDA CHI ALPHA OFFICIAL RULING ON TRANSGENDER MEMBERSHIP

I have therefore concluded that a college "man," for purposes of our laws, is any individual who, at the time both of his association and his initiation, self-identifies as male, regardless of his assigned sex at birth or his expression or the perceived expression of his gender. Any such individuals should be considered on an equal basis with all other candidates for association and initiation, and any discrimination against them on the basis of their gender identity would be a violation of our Mandatory Resolution on Discrimination.

Members are members for life under Article 4, Section 6 unless they resign or are expelled for disciplinary reasons. Accordingly, Members will remain Members even if they decide to transition after initiation. In other words, a person who was assigned male at birth and who has been initiated into our Fraternity but who later self-identifies as female, does not lose the benefits of membership in Lambda Chi Alpha. Later gender identification as female is not, standing alone, grounds for discipline.

I would also note as an aside that at least 23 universities at which Lambda Chi Alpha either has or has had a chapter have added gender identity to their prohibitions against discrimination, and the list of universities appears to be growing. Any failure of our Fraternity to prohibit gender identity discrimination may violate the policies of these universities.

In response to the Grand High Zeta's ancillary question, I reaffirm the single sex nature of our Fraternity. Congress specifically designed Title IX to bind the university, not the fraternal organization. A university that receives federal funding must comply with Title IX throughout the institution. An exemption under Title IX, however, permits a university to recognize single-sex social fraternities and sororities without losing its federal funding. All aspects of membership decisions - including whether or not to admit transgender students - remain solely with the fraternal organization.

Accordingly, my ruling with respect to gender identity above does not in any way diminish the single sex nature of the Fraternity, nor does it waive any rights the Fraternity may have under Title IX.

This ruling shall be deemed effective as of April 26, 2015.

Jeffrey A. Stuerman, Grand High Pi

Dated: April 26, 2015

SIGMA PHI EPSILON POLICY STATEMENT

Sigma Phi Epsilon is a national Fraternity built on the brotherhood and fellowship of men. Any individual who identifies as a man is welcome to seek membership in the fraternity. This policy is intended to uphold the mission of Sigma Phi Epsilon as a fellowship of men and should not be interpreted as changing the all-male character of the Fraternity or as a waiver of the Fraternity’s exempt status under Title IX.

CHAPTER EXTENDS MEMBERSHIP TO TRANSGENDER PERSON & CONTACTS HEADQUARTERS AFTER

In a one-on-one meeting with the Fraternity & Sorority Life Staff Member (FSA), the chapter president discloses that there is concern about how to conduct initiation because the fraternity's ritual requires a certain level of nakedness. The chapter president's concerns centered on their having a transgender new member. The FSA suggested that the chapter contact the Fraternity Headquarters. The news came as a shock to the Fraternity Headquarters Staff; but, they had to admit that the organization had no national policy preventing a transgender student from joining. Therefore, the chapter moved forward with initiation and made alternative arrangements for the comfort of the new members allowing all new members to wear t-shirts instead of being shirtless.

TRANSGENDER STUDENT SEEKS MEMBERSHIP TO NO AVAIL

Cosmopolitan Magazine published an article, "Can Trans Girls Be Sorority Girls?" on October 17, 2016. The article details the account of Emily Kaufman, a transgender female, who unsuccessfully participated in sorority recruitment at the University of Michigan in September 2015. The full article is available at:

<http://www.cosmopolitan.com/college/a4465624/transgender-sorority-members-public-policy/>

ALUMNI MEMBER MAKES CONTACT TO CHANGE NAME

(As cited in the [Lambda 10 Project Fraternity & Sorority Transgender Resource Guide](#))

Transgender Alums who wish to stay involved, but in a way that does not compromise their transgender identity [i.e. They want to be open about the gender they identify], can also be left out. In a May 2007 article entitled "Transgenders try to navigate Greek system," Amanda Cohen reports: "Joanne Herman '75, a member of Sigma Phi Epsilon fraternity, transitioned almost 30 years after graduating. After receiving a request from Sig Ep to update her contact information, Herman who as an undergrad went by Jeff-wrote a letter explaining her transition and gave them the option of taking her off their list if they wished. Herman said she has not received any mail from them since."

PARTICIPANT EXPRESSION DURING PROGRAM FACILITATION

During an inter/national program, a participant introduced themselves by name and then shared that their preferred pronouns were "they, them, their". The participant asked that the group and the facilitators honor their request for pronoun usage. The facilitators responded that they would do their best. One facilitator acknowledged the need in the space to honor the request. The other facilitator tried to honor the request; but, consistently used the pronouns "he, his, him" which continued to make other individuals in the room uncomfortable for the transgender participant. The transgender participant presented with male characteristics.

FOR OTHER RESOURCES: CONSULT [Jessica Pettitt's Website](#).