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Supporting LGBTQ+ Survivors on Campus

Molly Sapia

Temple University

Ethan Levine, PhD

Temple University

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Supporting LGBTQ+ Survivors on Campus

Ethan Czuy Levine, PhD
Assistant Professor of Criminal Justice
Stockton University

Molly Sapia, MA
PhD Candidate and Research Assistant
Temple University

About us

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Sexual Scripts and Criminal Statutes: Gender Restrictions, Spousal Allowances, and Victim Accountability After Rape Law Reform

Violence Against Women
2018, Vol. 24(3) 322-349
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DOI: 10.1177/1077801216687876
journals.sagepub.com/home/vaw



Ethan Czuy Levine¹

Abstract

The author provides a mixed-methods assessment of U.S. rape statutes to assess progress in reform. Contemporary statutes offer restrictive frameworks for distinguishing criminal from noncriminal sexual violence, many of which are grounded in gendered and heterosexist assumptions. Fourteen states retain gender restrictions in rape statutes. Twenty maintain marital distinctions that limit accountability for spousal rape. Furthermore, whereas explicit resistance requirements have been eliminated nationwide, implicit resistance expectations manifest through emphasis on physical force and involuntary intoxication. Analyses conclude with recommendations for further legal reform and a discussion of the potential for legislation to affect broader social perceptions of rape.

Sexual Violence Among Middle School Students: The Effects of Gender and Dating Experience

Journal of Interpersonal Violence
1-24
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DOI: 10.1177/0886260515590786
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Ethan Levine¹

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*Federal Intervention in
Campus Sexual Assault:
Title IX Investigations and
the "It's On Us" Campaign*

- Molly Sapia,
Temple University

STOCKTON COLLEGE

THE RICHARD STOCKTON COLLEGE OF NEW JERSEY



CAMPUS OUTREACH SERVICES

The Acronym(s)

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L = Lesbian

G = Gay

B = Bisexual

T = Transgender & Gender Nonconforming

Q = Queer & Questioning

**+ = other sexual/gender minority
communities**



Agenda

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- ❖ Intro to Title IX
 - ❖ What is Title IX? What is its history?
 - ❖ Why might some incidences of sexual violence have trouble fitting under Title IX?
- ❖ Violence within and Toward LGBTQ+ Communities
- ❖ Title IX and LGBTQ+ survivors
- ❖ Allyship and resources



Title IX of the Educational Amendments of 1972

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.



History of Title IX

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- ❖ Civil rights law
- ❖ Systemic discrimination against women in athletic, educational, and career achievements
- ❖ Male-on-female sexual violence as sex-based harassment & discrimination (“patriarchy model”)



The
“Patriarchy
Model”

Title IX Open Questions

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- ❖ Does “sex” include “sexual orientation” and “gender identity and expression?”
- ❖ Does all sexual violence fit under Title IX?

Violence Within and Toward LGBTQ+ Communities

Sexual Violence and Partner Abuse in LGBTQ+ Communities

Stalking, Sexual Violence and Abuse by Intimate Partners¹

Straight Women	35%	Straight Men	29%
Lesbian/Gay Women	44%	Gay Men	26%
Bisexual Women	61%	Bisexual Men	37%

- ❖ LGB men & women report higher rates of sexual violence than straight men & women¹
- ❖ **1 in 2 trans people** report lifetime sexual violence²
- ❖ **1 in 2 trans people** report lifetime partner abuse²

Supporting LGBTQ+ Survivors

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- ❖ All of the usual concerns apply!
- ❖ So what's different?
 - ❖ LGBTQ+ specific barriers
 - ❖ Policies with disproportionate impacts
 - ❖ Prior exposure to anti-LGBTQ+ violence and bullying^{3,4}



Barriers to Seeking & Receiving Support

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Cultural/Community

- ❖ Concerns about “outing”
- ❖ Shared support systems
- ❖ Recognizing abuse in LGBTQ+ communities
- ❖ Victim-blaming stereotypes specific to LGBTQ+ communities

Institutional

- ❖ Documentation
- ❖ Outreach materials
- ❖ Sex-segregated facilities and services
- ❖ Knowledge/comfort
- ❖ Institutional discrimination

Survivor Stories

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I, all my life was told that I brought on such assaults because of who I was. ⁴

My partner's coerced/nonconsensual sex with another FTM has fractured the local community into parties who believe my partner, parties who believe the perpetrator, and parties who don't want to take sides (who are perceived to not believe my partner as a result) ... ⁴

The clerk was friendly when she gave Robin the paperwork and began giving her instructions. When Robin said the person she wanted a restraining order against was her ex-girlfriend, ...the clerk wasn't so nice anymore ...she said, "Well, you can fill out the form anyway, but if she doesn't have any weapons, you don't have a very good case, do you?" ...We ended up leaving. ⁵

Recently proposed changes to Title IX

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DEPARTMENT OF EDUCATION

34 CFR Part 106

[Docket ID ED-2018-OCR-0064]

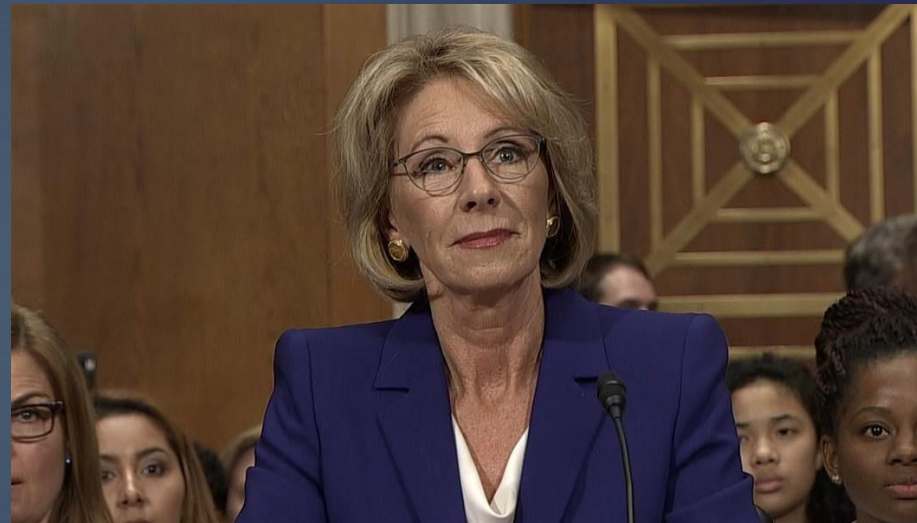
RIN 1870-AA14

**Nondiscrimination on the Basis of Sex
in Education Programs or Activities
Receiving Federal Financial
Assistance**

AGENCY: Office for Civil Rights,
Department of Education.

ACTION: Notice of proposed rulemaking.

Federal Register / Vol. 83, No. 230 / Thursday, November 29, 2018 / Proposed Rules



How might they impact LGBTQ+ survivors of sexual violence?

Defining “Sexual Assault”

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- ❖ Prior Guidance

- ❖ Ambiguous whether all sexual assaults count as sex discrimination
- ❖ No explicit definition of sexual assault

- ❖ Recently Proposed Changes

- ❖ Sexual assault, as defined in the Clery Act (rape and other sex offenses)
- ❖ Gender-neutral definition

How might these other policy changes impact LGBTQ+ survivors?

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Topic	Current/Prior Regulations	Recently Proposed Regulations

Allyship and Resources

Individual Allyship

- ❖ Educate ourselves
 - ❖ LGBTQ+ terminology
 - ❖ Unique barriers faced by LGBTQ+ survivors
 - ❖ Local and campus climate
- ❖ Be an active ally
 - ❖ Inclusive language
 - ❖ Be open to corrections
 - ❖ Approach sexual violence and harassment as LGBTQ+ issues

Ally is not a noun.
It's a verb.

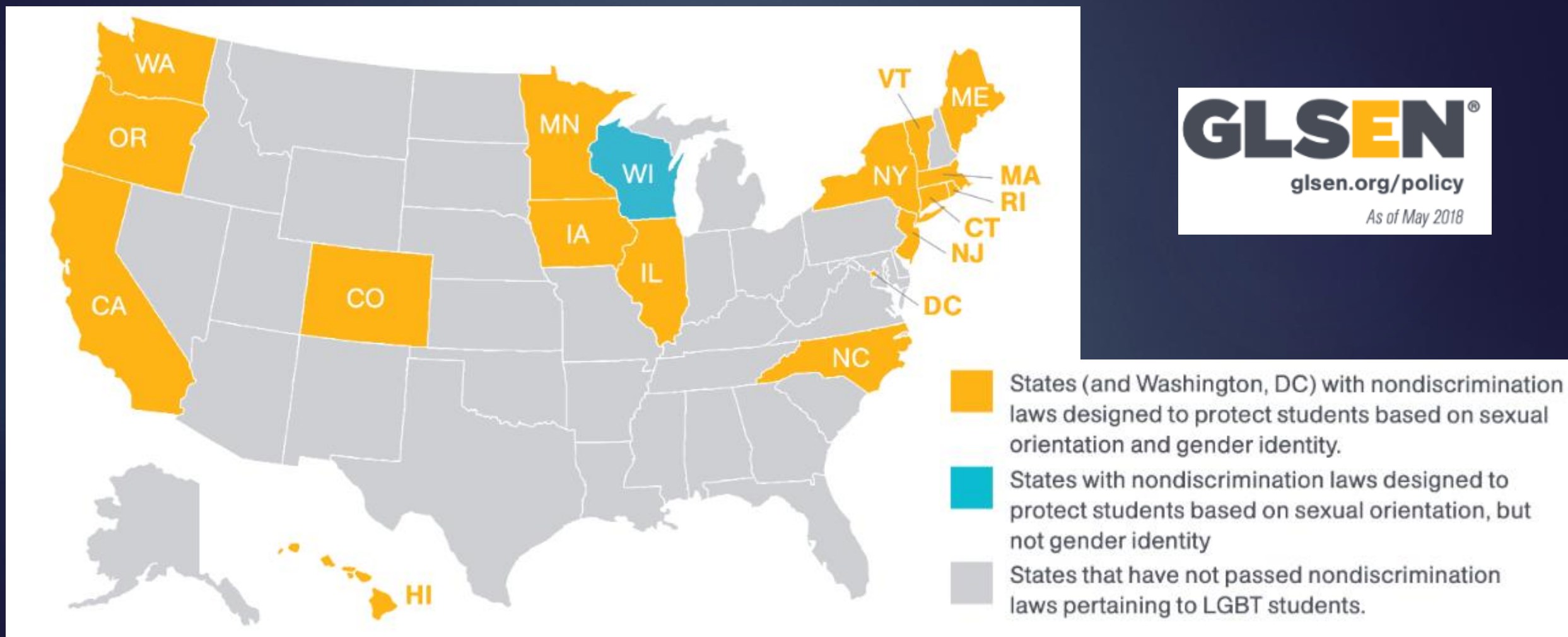
Institutional Allyship

- ❖ Educate ourselves on campus, state, and federal policy
- ❖ Work towards inclusion
 - ❖ Physical environment
 - ❖ Outreach materials
 - ❖ Documentation
 - ❖ Resources/referrals
- ❖ Community partnerships (on and off campus)
- ❖ Support LGBTQ+ student leadership

Ally is not a noun.
It's a verb.

LGBTQ+ Education Protections

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LGBTQ+ Inclusive Spaces

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LGBTQ+ Inclusive Documentation

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- ❖ Legal name & chosen name
- ❖ Pronouns
- ❖ Inclusive demographic questions, if applicable
- ❖ *Know and Tell Why*



Resources

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Improving the lives of transgender
and SOFFA individuals since 1994

**The
Northwest
Network**
of bi, trans, lesbian &
gay survivors of abuse

206 568 7777
nwnetwork.org



theNetworklaRed

Survivor-led organizing to end partner abuse

Dirigida por sobrevivientes • Movilizando para acabar con el abuso de pareja

Thank you!

Any questions?

Ethan Czuy Levine, PhD
Assistant Professor of Criminal Justice
Stockton University
levine.ethan@gmail.com
www.ethanclevine.com

Molly Sapia, MA
PhD Candidate and Research Assistant
Temple University
molly.sapia@temple.edu

References

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- ¹Walters, et al. 2013. *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Findings on Victimization by Sexual Orientation*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.
- ²James, S. E., et al. 2016. *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality.
- ³Kosciw, et al. 2018. *The 2017 National School Climate Survey: The Experiences of Lesbian, Gay, Bisexual, Transgender, and Queer Youth in Our Nation's Schools*. New York: GLSEN.
- ⁴Munson, M., & Cook-Daniels, L. 2015. *Transgender Sexual Violence Survivors: A Self Help Guide to Healing and Understanding*. Milwaukee, WI: FORGE.
- ⁵Quinn, M. E.. 2010. *Open Minds Open Doors: Transforming Domestic Violence Programs to Include LGBTQ Survivors*. Boston, MA: The Network/La Red.

Supplementary Materials

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1. Hate Violence and Bullying in LGBTQ+ Communities
2. FBI and Clery Sexual Offense Definitions
3. Prior LGBTQ+ Protections related to Sexual Violence under the OCR
4. Verbatim policies
 - ▶ Prior/current and proposed regulations around campus sexual harassment and assault with quotes and page numbers
5. LGBTQ+ Employment Protections
6. Public Accommodations Protections

Hate Violence and Bullying in LGBTQ+ Communities

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- ❖ **In the past year, 87% of LGBTQ+ K-12 students experienced some form of harassment or assault in school based on personal characteristics³**
 - ❖ 57% experienced sexual harassment
 - ❖ 1 in 4 experienced harassment or bullying based on characteristics other than LGBTQ+ status
- ❖ **1 in 4 transgender students experience verbal, physical, and/or sexual harassment in college or vocational school**, among those who are out or are perceived as trans²



FBI and Clery Definitions

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Rape

- ▶ The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Sex Offenses

- ▶ Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
- ▶ A. *Fondling*—The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- ▶ B. *Incest*—Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- ▶ C. *Statutory Rape*—Sexual intercourse with a person who is under the statutory age of consent.

Source: https://www.ecfr.gov/cgi-bin/text-idx?SID=0f9b4554127f94265d49d29a16b90049&mc=true&node=ap34.3.668_150.a&rgn=div9

Prior LGBTQ+ Protections related to Sexual Violence under the OCR

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Guidance Documents (with Links)	Summary of Protections
2001 Sexual Harassment Guidance (still active)	<ul style="list-style-type: none">• Still applies, but will soon be replaced• Sex-stereotypes (p. v)• “regardless of the sex of the harasser” (p. 3)
2014 Q&A on Sexual violence under Title IX (rescinded)	<ul style="list-style-type: none">• Same but more details• LGBT face high rates of violence (p. 5)• Suggested policies (p. 6)
2016 Dear Colleague Letter on transgender students (rescinded)	<ul style="list-style-type: none">• Definitions (p. 2-3)• Honor gender identities• Access to facilities

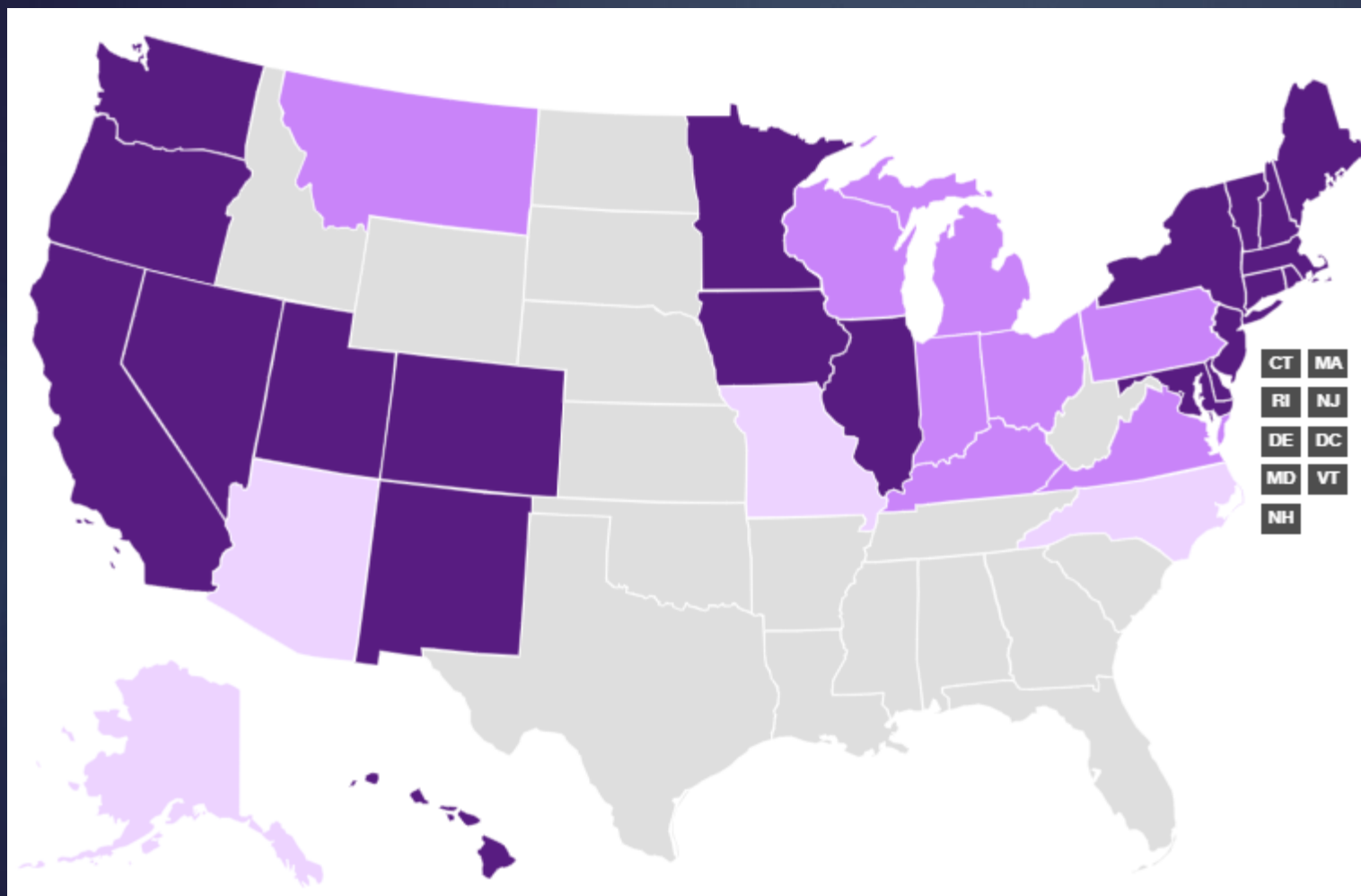
Verbatim Policies

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Topic	Current/Prior Regulations	Newly Proposed Regulations
University knowledge of a sexual violence incident	"if a responsible employee knew, or in the exercise of reasonable care should have known" (2014 Q&A, p. 2)	(Actual knowledge): "notice...to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient" (p. 61466)
Cross-examination	"OCR strongly discourages" it because it may be "traumatic or intimidating" (2011 DCL p. 12)	"...grievance procedures must include live cross-examination" (p. 61476)
Incidents outside program or activity	"...a school must process all complaints of sexual violence, regardless of where the conduct occurred, to determine whether the conduct occurred in the context of an education program or activity or had continuing effects on campus" (2014 Q&A, p. 29)	"...if the conduct alleged...did not occur within the recipient's program or activity, the recipient must terminate its grievance process" (p. 61474) However, "...nothing would prevent a recipient from initiating a student conduct proceeding or offering supportive measures" (p. 61468)

LGBTQ+ Employment Protections

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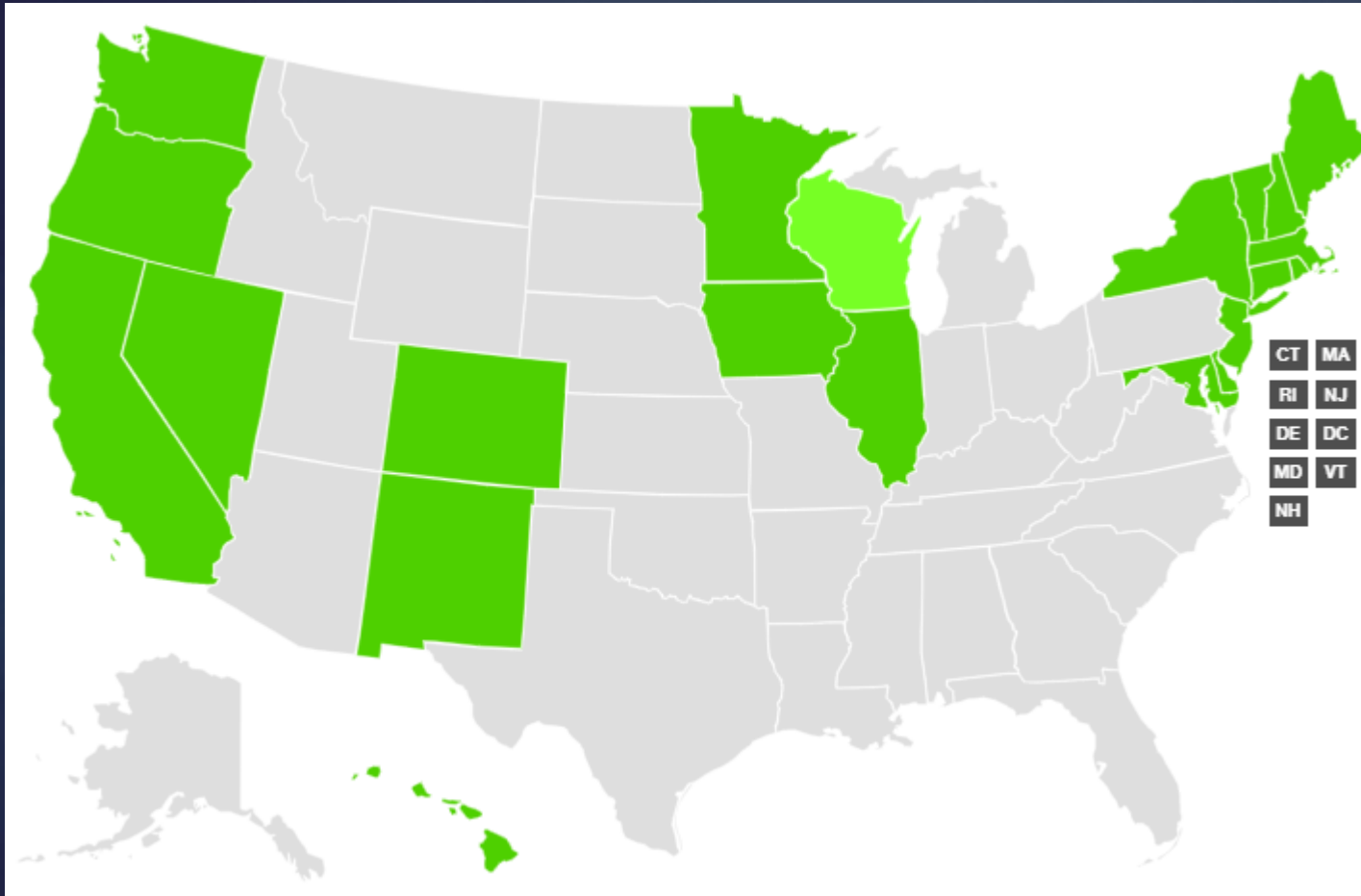
- Prohibit discrimination based on sexual orientation and gender identity
21 STATES AND DC
- Prohibit discrimination based on sexual orientation only
0 STATES
- Prohibit discrimination against public employees based on sexual orientation and gender identity
8 STATES
- Prohibit discrimination against public employees based on sexual orientation only
4 STATES



Updated January 11, 2019

Public Accommodations Protections

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Updated June 11, 2018