

Gender-Inclusive Language in the Courts: How to Communicate with Fairness, Dignity, Impartiality, and Accuracy





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Suggested Reference: Wirkus, A., Zarnow, Z., *Gender-Inclusive Language in the Courts*, The National Center for State Courts, (2ed. 2024).

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Introduction

The legal profession has long valued grammatical precision and celebrates the wordsmithing ability of its field. Anecdotally, it is common for first-year law students to be told in their legal writing courses that cases have been won or lost on a comma. Contract drafting, briefs, and memoranda require exactness to hold legal authority and persuade parties to your viewpoint. As such, gender inclusive language should be a priority area of focus for courts to ensure accuracy, impartiality, and public trust.

Courts, as finders of fact and appliers of law, must concern themselves with the proper way to address and serve all Americans, regardless of gender. Updating gendered language to be gender inclusive is something courts have done previously. **Now is the time to expand that work from the binary genders (male and female) and include all genders.** "Instead of allowing language to construct how we view the world, we could push in the other direction, questioning how we can reflect our world through our choice of language."ⁱ

At a minimum, when judges, court and clerk staff, and other justice system partners communicate with court users and other practitioners, they should use gender-inclusive language as much as practicable. Courts should make it common practice in both oral and written communications.

- **Ask people how they would like to be addressed and respect their indicated preference.**
- **Consider adding a pronouns field in standardized forms.**
- **Make writings more accurate by being inclusive and being responsive to legal changes.**
- **Consult with native language speakers to reflect inclusivity in translated court communications.**



Attorneys and judges are bound by ethical rules requiring them to treat all participants with respect and dignity.

The Model Rules of Judicial Conduct, Rule 2.3 states, "A judge shall perform the duties of judicial office... without bias or prejudice," "shall not by words or conduct manifest bias or prejudice... based upon gender..." and "shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, based upon attributes including ... gender."

- *ABA Judicial Rules of Conduct Rule 2.3, (2020)*

"It is professional misconduct for a lawyer to: ... engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law."

- *Model Rules of Professional Conduct Rule 8.4(g)*

With the multitude of state laws and approaches to gender identity, it is increasingly important that courts have a unified way to address and discuss these issues. **This toolkit will inform courts on what they can do now to make all court users feel safe, seen, and heard in court proceedings.**



Terms:

It is important to recognize and honor everyone's gender identity by using gender-inclusive language. One important distinction needed to understand gender-inclusive language is the difference between gender and sex.

“Sex” refers to categorization based on reproductive function and external anatomy. Most humans and many other living things are categorized as male or female based on these characteristics.ⁱⁱ It is important to remember, however, that sex is a continuum. Folks are assigned a sex at birth, typically based on their external anatomy. But this **“sex assigned at birth”** often does not consider biological factors beyond anatomy, chromosomal factors, or a person's gender identity. And some people have anatomy that does not clearly correspond to perceived “male” or “female” anatomy.

“Gender” refers to socially and culturally defined roles and expressions that are often labeled as “male” or “female” (e.g. name, pronouns, clothing, haircut, voice, and/or behavior).ⁱⁱⁱ For example, a person who has long hair and wears dresses is often perceived as female in the U.S., because long hair and dresses are often seen as femaleness or feminine in this culture. Or a person named John might be perceived as male in the U.S., because this name is culturally viewed as male or masculine.

Someone's **“gender identity”** refers to that person's deeply held knowledge of self and may or may not be visibly identifiable.^{iv} A person who is **transgender** is a person whose **gender identity**, their deeply held knowledge of self, does not match their sex assigned at birth.^v

People may have a gender identity that is not male or female, that moves between genders, or that encompasses multiple genders. There are many terms people use to express their gender identity in addition to male or female. These terms include gender-diverse, gender nonconforming, and nonbinary.

“Gender expression” is the way that people present themselves using various modes of expression that are commonly culturally associated with gender (e.g. name, pronouns, clothing, haircut, voice, and/or behavior). Assuming a person's **gender identity** based on gender expression markers, such as a name, haircut, dress, or behavior is often a mistake. A person's **gender expression** does not necessarily tell anything about their **gender identity**. Many markers of gender expression are tied to cultural norms and assumptions or stereotypes that do not hold true for all people.

These terms are not all-inclusive, and some people may use words not included here to define or talk about their gender identity. The important thing is that courts recognize

there is not a simple “either, or” for gender and sex, and using inclusive language shows respect for everyone and best upholds the ideals of our justice system.

“**Gender inclusive language**” is language that respects a person’s gender identity regardless of their sex assigned at birth. It includes pronouns, names, titles, honorifics, and other forms of address. It can also be the manner of address, which is why respect is the cornerstone for implementing gender inclusive language.

Part 1: Context for Gendered Language

Gender is something that is all around us and engrained in our society, culture, and language. We name and gender everything from hurricanes to ships and nations.¹ For many Americans who question how to express their gender, or are not comfortable with how others gender them, gender is something they must confront regularly. Using language that matches someone’s correct gender identity has a measurable effect on how they interact with someone and their mental well-being. It also makes a difference in society’s perception of courts.

The history of misgendering does not exclusively apply to nonbinary and transgender communities. Concerted efforts have been made to ensure that the traditionally masculinized words in English become gender-neutral to reflect an evolving world where women are increasingly represented in every field. Historically, the masculinization of society has been the norm and is even reflected in the way we talked about humans, referring to them as man or mankind. The masculine bias was also prevalent in the positions and occupations that historically were only open to men such as policeman, chairman, fireman, etc.^{vi}



¹ This phenomenon is known as the English Metaphorical Gender, which you can read more about [here](#).

Misgendering is disrespectful, causes embarrassment and humiliation, expresses social subordination, deprives individuals of privacy, threatens their safety, is dehumanizing, deflates credibility, obscures understanding, and infringes and curtails the autonomy of gender minorities.^{vii} Misgendering causes a host of psychological and physiological injuries and is a form of microaggression. Microaggressions are defined as “subtle forms of discrimination that communicate hostile or derogatory messages particularly to and about members of marginalized groups.”^{viii}

The anxiety that misgendering causes when it happens builds into extreme stigmatization and causes psychological and emotional distress over time.^{ix} Misgendering causes lower self-esteem and increased negative views of self, including increased rates of hopelessness, apathy, depressive symptomology, and suicidal ideation.^x Not using the correct pronouns trivializes a person’s experience and attempts to invalidate the internal experiences one may have. This constant invalidation by way of misgendering causes emotional distress, depression, and PTSD, and is considered a form of psychological abuse.^{xi}

Using the wrong gender identifier for somebody is just as incorrect as using the wrong name to identify an individual.

Because English does not naturally have gendered nouns, usage of gender-neutral nouns decreases gender bias and sexism.^{xii} Linguists deem English a “natural gender” language, meaning that there are gendered pronouns, but our nouns are not gendered as in other languages.^{xiii} The introduction of gendered language into the lexicon reflects gendered biases.

The gender bias leads to a favoring of the “masculine.” In a recent study, researchers found that Americans are significantly more likely to perceive an illusory face (like the outlet pictured here) as male.^{xiv}

These associations begin to form from a young age and are reflected in English literature. In a study about the gendering of inanimate characters in children’s books, researchers found that inanimate objects were frequently masculinized unless the object had perceived “feminine” qualities.^{xv}



It is important that courts do not unnecessarily use gendered nouns, and that they use proper identifiers for all court users. The issue is not that we should never use gender/gendered identifiers. The issue is when we assume the gender of a known or unknown person.

Part 2: Principles of Inclusive Language for Courts

1. Never Assume an Individual's Gender

Never assume someone's gender. Gender identity is not something you can see.

Some members of the TGNC community use gendered identifiers, and others prefer the gender-neutral versions. The purpose of using gender-neutral identifiers is to accurately reflect the spectrum of gender identities that people have. Frontline staff, such as clerks, bailiffs, and attorneys are often the first point of contact a court user has. They set the precedent.

One reason it is important to do this early is that if you assume someone's gender and use gendered identifiers to refer to them to your colleagues, it will be even harder to break that habit. Remember that gender-affirming language does not remove gender from everything, but honors everyone's gender. This means once you know someone's identifiers, it is not inappropriate to use them.

Remember, lawyers and courts need to be precise and accurate in their writing and communication, and making assumptions that lead to inaccuracy is an avoidable mistake. Don't assume gender based on the way a person's voice sounds or on their appearance. While courts expect "professional dress," you should not comment about someone's appearance if it doesn't match your expectations of their gender.



2. Gendered Language and Personal Identifiers

A. Pronouns:

There are many pronoun variations. Some people who do not identify along the gender binary use “they.”² Others may use **neopronouns**. Neopronouns include ze/hir (pronounced zee/heer) and xe/xem (pronounced zee/zem). Some people use **multiple pronouns**. For example, he/they, also known as **rolling pronouns**, which may be used interchangeably.^{xvi} Use these pronouns in the same way you would use “she/her” or “he/him” when speaking and in writing.

For a great discussion on why this matters, check out [this tiny chat](#) featuring **Chief Justice Gonzalez and Chief Justice Robinson** on creating a shared language.

Someone’s pronouns are never preferred, but rather just are. You should say someone “uses she/they pronouns” not that they “prefer she/they pronouns.” Want to learn more about pronouns? Check out, [Practice with Pronouns](#)

As you get familiar with and make correct identifiers part of your normal practice, do not be ashamed if you mess up. **If you do make a mistake or notice that someone is being misgendered by your coworkers, politely correct the error and then move on.** Do not dwell on it or excessively apologize, as this can be uncomfortable for the misgendered individual.^{xvii}



² Some grammarians have balked at the use of “they” as a singular pronoun, however, the [Merriam-Webster Dictionary](#) has included the use of they as a singular pronoun since 2019. Additionally, [writing experts](#) say “they” may be used to; “(1) replace he or she, (2) refer to collective nouns, and (3) respect gender identities.” These uses of they have also been recommended by the American Psychological Association, including in their writing and citation guide.

B. Other Gender Identifiers:

While pronouns are the most well-known identifier for gender-inclusive language, it is important to recognize they are not the only identifier that can cause misgendering. “Pronouns are words that take the place of a noun and tend to correlate to gender identity in the third person: he, she, they, ze...”

Honorifics include Mr., Mrs., Ms., and the gender neutral Mx. (pronounced “mix”).^{xviii} **Although this may be new to some, changing habits of addressing someone with a new honorific should be a familiar practice as Ms. has widely replaced Mrs. over the past few decades.**³



³ Mx. first appeared in print materials in 1977 and was added to the dictionary in 2016. It was created by crossing out the “r” of Mr. and the “s” of Ms. <https://www.merriam-webster.com/wordplay/mx-gender-neutral-title>

Part 3: Gender-Affirming Language Practice Tips

How to Make Gender-Affirming Language Part of Your Court's Ethos

1. Ask Court Users How They Would Like to Be Addressed
2. When In Doubt, Use Neutral Language
3. Respect Gender in All Stages of Legal Proceedings
4. Think Broadly about Court Rules and Procedures
5. Be Proactive

1. Asking How to Address Someone

You may always ask someone, **“How may I address you?”**^{xix} This shows a level of respect and that you will honor their gender identity. If you are going to ask one person, you should ask everyone. Otherwise, you run the risk of singling someone out, making an incorrect assumption, or being discriminatory. Indicated forms of being addressed may include a name, pronouns, titles, honorifics, role in the case, or something different.

After asking, **respect and use their indicated identifiers.** Remember, the whole reason honorifics have traditionally been used in courts is to demonstrate respect. Some people may wish to simply be called by their first name, and by so doing, you are being respectful.



they them

One way you can make asking how to address someone less uncomfortable is by introducing yourself with your identifiers. For example, you could say, “Hi, my name is Andy and I use he/him pronouns. What’s your name?” or “My name is Judge Doe, however, you may call me ‘your honor.’” You can also include your identifiers in your zoom display name and in your email signature. This signals safety for others to express their identifiers and eliminates the possibility of someone misgendering you.

Note: Some people may be exploring their gender identity and may not be ready to share their identifiers. Judges may consider having a party or their attorney approach the bench to have this discussion so that it is not part of the record. You can avoid outing someone by being intentional of the time, place, and manner that you ask how to address them.



2. When in Doubt, Use Neutral Language

Whether the court is communicating with the public, or they are sending information internally, it is important that their communications are inclusive of all genders.

When addressing a group of people, it is common to hear someone start by saying, “ladies and gentlemen.” While this has been considered a respectful way to address people, it is exclusionary of the TGNC community and reinforces the binary. Courts should be conscious of this as well as any other language that refers to the “opposite sex” or further emphasizes the binary. **When addressing an individual whose gender is unknown or in referring to them, “they” is a great pronoun to start with.** Once someone has clearly and expressly indicated they use certain gendered pronouns, use those gendered pronouns.

In email salutations and at the start of calls there are many ways to make people feel welcome without using gendered language, such as “Hey All,” “Hey team,” or “Hello everyone”, which encompasses all the genders in the group email or phone call. Do not say “Hey Guys,” which is less inclusive. When writing about an unknown group of individuals, avoid the use of “he/she” and “he or she” because it implies a gender binary, and instead use the singular “they.”^{xx}

Say: “The defendant must bring their signed copy of the form...”

Not: “The defendant must bring his signed copy of the form...”

Say: “The defendant must bring their signed copy of the form...”

Not: “The defendant must bring his/her signed copy of the form...”

3. Respect Gender in All Stages of Legal Proceedings

Gender-Affirming language should be used in all stages of the ethical practice of law.

A. Drafting Inclusive Legal Documents

When writing legal documents, consider the level of specificity that is needed when describing a person. Is gender relevant? If not, do not mention it. If it is necessary, use modifiers to be as specific as possible.^{xxi}

In legal drafting, there are three easy things that can be done:

First, simply repeat the noun (defendant on first and second reference),

"The defendant argues the bill was paid by the defendant on the last day of September."

Second, pluralize the noun (saying defendant and then "they" on the second reference),

"The defendant argues that they paid the bill on the last day of September."

Third, use paired pronouns (saying defendant first and then using that person's pronouns on the second reference).¹

"The defendant argues that she paid the bill on the last day of September." **NOTE: This version should only be used if the defendant's gender identity is known.**



When drafting a form, communication, or written material that describes a group of people, consider the labels to use and the amount of specificity needed. **Do not use adjectives as nouns to label people (e.g. “the gays”).**^{xxii} For a comprehensive style guide that addresses this and other issues, check out, [Language Please](#).

To see how other countries are doing this click on them below.

- [Canada](#)
- [The UK](#)
- [Australia](#)

B. Respecting Gender in the Adversarial Practice of Law

According to ethical rules, which guide the practice of law, attorneys are instructed to treat their clients with respect and provide effective assistance of counsel.

Attorneys do neither if they misgender their clients or other participants in the procedure. Judges should correct this behavior. For examples of two states who wrote good rules about this in 2023, see [Washington’s General Rule 43](#) and [Michigan’s amendment to Rule 1.109 of the Michigan Court Rules](#).

Three separate circuits have heard cases about pronoun issues, and all three have found that there is no constitutional obligation to use the correct pronoun.^{xxiii} In the 5th circuit case, the issue is whether judges were required to compel lower courts to change a pronoun in a judgment and the court decided it was not necessary.^{xxiv}

However, two lawyers who submitted amicus briefs for the Supreme court case *Gloucester County v. G.G.*, were rebuked by the court for using the wrong pronoun in the caption of the case.^{xxv} They were told to refile with the correct pronoun as their briefs were inaccurate. Additionally, in the recent *Bostock* decision by the Supreme Court, the majority opinion authored by Justice Gorsuch used the correct pronouns for the party. This is the first time that the Supreme Court has used the correct gendered pronouns rather than gender-neutral pronouns in a decision about Transgender rights and signals to lower courts that respect and correctness should always come before personal bias.^{xxvi}

4. Think Broadly about Court Rules and Procedures

There are many steps that courts can take to make their forms, rules, and orders more inclusive. These steps are necessary to ensure the accuracy of court documents and further provide inclusion for the TGNC community. While much of the revision of statutes, codes, and constitutions will need to be done by the legislature, courts can do their part to ensure forms, documents, and orders are gender inclusive. Courts must also be prepared to reflect the changes that are being made to statutes and constitutions.

A. Impetus for Change

States and some federal agencies have taken steps to recognize the full spectrum of gender identity. On March 31, 2022, the federal government announced that it will issue gender-neutral passports and Social Security Cards with the “X” gender marker.^{xxvii} California, Colorado, Connecticut, Illinois, Maine, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, and Washington, the District of Columbia all issue US birth certificates with a “3rd gender” category, or X marker for those that don’t identify on the binary.^{xxviii} There are currently 24 states that allow individuals to select an “X” gender marker on their driver’s license or state ID.^{xxix}

Many states have recognized the need to address these inaccuracies and are modifying their codes. According to the National Conference of State Legislatures, roughly half of the states have taken some steps already to ensure that their legal language is gender-neutral. These changes are happening at all levels of government and in all forms of legal documents.

New York and **Rhode Island** amended their state constitutions to be gender-neutral, and **Florida** and **Washington** have done expansive revisions to remove gender-biased words from their laws.

As of November 3, 2021, **Oakland, Berkeley, Boston, Portland, Oregon, and San Diego** have all passed city laws that require inclusive language in all laws and rules. The **United States House of Representatives** passed a resolution to make codes and rules gender-neutral. And, on January 20, 2021, President Biden issued an Executive Order mandating governmental agencies eliminate gender-biased language in their rules and prohibits sex discrimination.

For interactive maps and great information about the status of laws that affect the TGNC community check out, [lgbtmap](#) and the Transgender Law Center's "[Equality Map](#)."

You can also check out the Human Rights Campaign's State Equality Index, found [here](#).

In July 2021 Governor Newsom signed Senate Bill 272 (SB272) which updated parts of the **California** code to eliminate gender-specific references to positions and titles within the legislature. The bill was prompted when CHP Commissioner Amanda Ray was the first woman to be appointed to the position, which was described with only masculine terms. Read more: [California](#).

B. Necessary Revisions for Courts

One area of law that has a particular need for revision is family law. When LGBTQ+ marriage was federally legalized in 2015, states that had not already legalized it had to revise marriage licenses, parenting plans, and other court materials to reflect the spectrum of couples getting married. Revising these legal documents was necessary because it was no longer accurate to only represent heterosexual cisgender couples.

The courts had to update and revise their materials to be responsive to this change in the law, as they would with any other change. This is not a new obligation for the judiciary, yet when it comes to gender inclusivity, this is an area where courts are lagging.

Similarly, many current court documents and forms include inaccuracies surrounding gender identity and traditional gender roles. In general documents and laws, default to gender-neutral terms.

Here are some simple tips for courts:

When describing a person's relationship with someone else, use the gender-neutral **“partner,” “sibling,” “child,” etc. instead of wife, brother, girl, etc.** until you know the term the parties use.

In parenting plans and child custody matters rather than saying the **“mother and father,” you should default to “parents.”**

If there is any reason to specify the role of the parent you should not assume the traditional roles of **“wife,” “husband,” “father,” “mother,” etc. Instead, you can say “spouse,” “partner,” “parent,” “parent giving birth,” etc.**

NOTE: Once parties have self-identified, you should use the terms they have identified with.

While family law is an obvious area of law in need of updating, all areas of the law should be revised to be inclusive and eliminate gender discrimination. In July of 2021, **Wisconsin** passed a law that allows parents to identify simply as “parent” or “parent giving birth” on a child's birth certificate.^{xxx} **New York** and **California** both have employment laws that mandate that employers must use an employee's pronouns and name that the employee uses.^{xxxii} In the fields of contract and form drafting, misgendering someone is a form of inaccuracy that could make the document void.^{xxxii}

5. Proactive Steps for Court

Courts should give participants an opportunity to tell the court their identifiers before they come to court so that they are accurately referred to by other participants and by the court.

Utah offers parties a chance to include a **“Notice of Pronouns”** in their court filing documents.

Michigan amended their court rules to allow parties to indicate a preferred form of address and their pronouns in the caption of documents filed, effective January 1, 2024.⁴

Washington also adopted General Rule 40, allowing “any person’s personal pronouns” to “be indicated in the text of filed documents. Additionally, the signing attorney can indicate their personal pronouns in the signature block of filed documents.”^{xxxiii}

Massachusetts has a similar rule they adopted in 2022 that allows litigants or attorneys to include personal pronouns on documents filed with the court.^{xxxiv}

Courts should consider the right way to receive this notice in their jurisdiction, which could include providing a notice of pronouns on all court forms, not as a separate notice. Additionally, courts may wish to provide an opportunity for parties to circle their title and pronouns on forms.

As always, courts should use plain language. All court communications, including forms and instructions, should be written in plain language. Plain language helps court users understand the purpose of the form and helps them fill out the forms more accurately. For resources on plain language, as well as a plain language glossary, visit this **NCSC site**.



⁴ This amendment can be found in the Michigan Court Rules, Rule 1.109(D)(b)(vii). This is a great example of rule language regarding gender-inclusivity. It reads, “Parties and attorneys may also include Ms., Mr., or Mx. as a preferred form of address and one of the following personal pronouns in the name section of the caption: he/him/his, she/her/hers, or they/them/theirs. Courts must use the individual’s name, the designated salutation or personal pronouns, or other respectful means that are not inconsistent with the individual’s designated salutation or personal pronouns when addressing, referring to, or identifying the party or attorney, either orally or in writing.”

A. Data

Courts should also consider what data they collect about sexual orientation and gender identity (SOGI) from their court participants, and how they collect it. Besides the regular issues of data governance and protection,^{xxxv} there is an added risk for recording sensitive information about someone's identity. This has implications not only in the case of a data breach, but also when considering what is public information. For many court users, having their sexuality or gender published in a public record is not an option, and they should not be forced to out themselves. For more comprehensive guidance and recommendations see the guides published by [The Urban Institute](#) and [Digital Benefits Hub](#).



Part 4: A Note on Translation and Gender-Inclusive Language

Languages all have unique structures and formatting, some of which make **gender-affirming language a challenge**. Many of the challenges stem from languages not having a gender-neutral set of pronouns and corresponding nouns. However, because courts should be using gender-affirming language in their English content, there is an imperative to keep the language inclusive when it is translated into various languages.

There are three main language types,

1. **Gendered languages, like Spanish with gendered nouns and pronouns.**
2. **Genderless languages, like Mandarin with no marked gender for nouns and pronouns, and**
3. **Natural gender languages, like English with gendered pronouns and genderless nouns.**^{xxxvi}

All languages approach gender-affirming vocabulary differently and it is essential that courts consult with native language speakers to understand the best way to **be inclusive in any given language**. Courts should be cognizant of the colonization of language. Colonization of language occurs when cultural nuances around gender are either lost or intentionally destroyed in translation. This occurred with the erasure of identities like indigenous Two Spirits and Samoan Fa'afafine, to name only two.^{xxxvii}

For gendered languages, creating gender-affirming language is more difficult to achieve because their words are naturally gendered and have matching gendered pronouns. The four most spoken gendered languages are **Hindi, Spanish, French, and Arabic**. These languages all use the masculine form of nouns as the default grammatical gender. This means that when addressing a group, or if the gender of an individual is unknown, speakers will default to the masculine.

Courts should do their best to respect these gender identities and be mindful of them as they work on creating gender-affirming language, and as they translate documents into languages where these identities exist.

For example, in **Spanish**, the word for friend is “amigo.” If your friend is a man, they are your “amigo.” If your friend is a woman, then you change the ending, and it becomes “amiga.” However, if you are addressing a group of friends with men and women in the group you use “amigos.” Only when you are addressing a group of all female friends can you say “amigas.”

English is not the only language undergoing a change to be gender-inclusive and it is important that courts be aware of the proper forms of address in other languages.

Sweden has created a gender-neutral pronoun of “hen.” The introduction and use of this pronoun have **been shown to reduce gender bias according to a 2015 study.**⁵ ^{xxxviii} They call this a “gender-fair language (könsmåssigt språk)” and the neutral pronoun can be used instead of the “hon (feminine)” and “han (masculine)” pronouns.^{xxxix}



Spanish speakers have been trying to confront this issue as well, with different countries having different approaches. Young Spanish speakers in the **United States** have pushed for a genderless “x” ending to gendered nouns, activists in **Spain** are trying to get the constitution rewritten with an “@” ending to gendered nouns, and teens in **Argentina** are advocating for a genderless e ending for gendered nouns.^{xl} Issues arise with these solutions, however, because with both the x and @ endings, there is no clear

or easy way for Spanish speakers to pronounce these words when speaking. **For this reason, the Real Academia Española, which is the official institution for the stability of the Spanish language, has added the genderless pronoun “elle” to its dictionary.**⁶ ^{xli} Youth in Argentina have enthusiastically adopted this change and used it for inclusion.^{xlii}

⁵ Many people who argue against inclusive writing and language argue that the theory of “language determinism” has never been proven and is not good science because it can’t control for cultural differences. <https://www.linguisticsociety.org/resource/language-and-thought> This study is crucial for understanding how this is not true because it takes the mostly cultural homogenous Swedish population, tests their gender biases, then reevaluates them after the usage of a gender-neutral pronoun is introduced and finds that gender bias did in fact decrease.

⁶ While this seems promising, the Academy has also said the grammatical changes are “unnecessary and artificial.” https://www.washingtonpost.com/dc-md-va/2019/12/05/teens-argentina-are-leading-charge-gender-neutral-language/?arc404=true&itid=ik_inline_manual_21).

Following the same example above, amigo would become amige for the generic definition, a nonbinary individual, or for someone whose gender is unknown. It would also mean that you would use amigues for a group of friends, regardless of the gender of friends within that group.

Courts should be careful, however, that they do not turn true gendered nouns genderless. Additionally, some words that are gender-neutral have colloquially been assigned a gender, so courts should be aware of that as they select the ending for the root word that is most correct. The word for chicken in Spanish is gallina. This would never become gallino or galline, because there is a different word for rooster which is gallo. An example of a word that has been assigned a gender, when in reality the root is genderless, is the word for president. The official word for president is “presidente.” Spanish speakers have begun using the word “presidenta” to signal a female president. These words have been considered masculine because of gender biases and historical usage of only having presidents who are men, but in reality, should be used regardless of gender. (Some Spanish-speaking feminists argue that it is important to add the feminine ending to these genderless nouns to increase visibility, however, this erases the nonbinary and gender-non-conforming experience).^{xliii}

It is always best to consult a native language speaker to know what is most appropriate.



Conclusion

Using gender-inclusive language is a matter of correctness, as much as it is a matter of respect, both of which the courts have a duty to concern themselves with.

Considering how to address court users accurately and respectfully must be incorporated into all court communication. Further, courts have an obligation to update forms, communications, and other writings to be in line with laws drafted by the legislature, which include the changing landscape of laws surrounding the TGNC community. In addition, courts should be mindful of the language they use and the perception that it gives. By continuing to make these simple changes to verbiage the courts will have the most precise language which is of paramount importance in the practice of law.

Endnotes

- ⁱ APA Style Guide. Updated 7/2022, Retrieved 9/15/2022. From <https://apastyle.apa.org/style-grammar-guidelines/bias-free-language/gender>
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