

**Experiences with Sexual Orientation and Gender Identity Employment Discrimination:  
Analyzing EEOC Discrimination Charge Narratives<sup>1</sup>**

**Amanda K. Baumle, Steven Boutcher, and M.V. Lee Badgett**

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**ABSTRACT**

In this report, we engage in the first qualitative analysis of charge data filed with the Equal Employment Opportunity Commission (EEOC) alleging employment discrimination based on sexual orientation and gender identity (SOGI) discrimination. We analyze the narratives of 964 charges of SOGI discrimination to answer the following questions: (1) What are the different experiences of discrimination claimed by SOGI employees in formal charges?; (2) How do the alleged experiences of discrimination vary between sexual orientation and gender identity charges?; and (3) How do these experiences described in discrimination charges differ between federal contractor and noncontractor employees? This report is part of a larger study analyzing differences in SOGI discrimination experiences and outcomes between employees of federal contractor and noncontractor firms in response to President Obama’s Executive Order prohibiting SOGI discrimination for federal contractors. In this report, we detail differences in demographics and alleged discrimination experiences between sexual orientation and gender

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identity charges, as well as federal contractors and noncontractors, and conclude with recommendations to the OFCCP based on our analyses. Combined with our quantitative report, this research provides useful guidance to the OFCCP in its efforts to protect lesbian, gay, bisexual, and transgender (LGBT) workers from unfair treatment in the workplace.

## **INTRODUCTION**

This project is the first analysis of federal data on employment discrimination based on sexual orientation or gender identity (SOGI). This report is part of a broader study that draws from quantitative and qualitative data on discrimination charges. Our goal in the quantitative report is to assess the impact of President Obama's 2014 executive order (EO 13672) forbidding federal contractors to discriminate on the basis of sexual orientation and gender identity, an executive order enforced by the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor. In that study, we focus our analyses on the timing of the executive order in order to assess what impact, if any, it had on the filing for claims by LGBT workers. In this qualitative study, we descriptively analyze narrative data on charges of sexual orientation and gender identity (SOGI) discrimination filed by individual employees with the Equal Employment Opportunity Commission (EEOC) with the goal of understanding the experiences of discrimination that cannot be gleaned by the quantitative data alone. The analysis is guided by economic and sociological theory, and this particular study draws from a qualitative content analysis of the workplace experiences that generated the charges. Taken together, our research will provide useful guidance to OFCCP in its efforts to protect lesbian, gay, bisexual, and transgender (LGBT) workers from unfair treatment in the workplace.

In this report, we analyze detailed charge narratives that are part of the charging process. These narratives describe LGBT discrimination experiences in a wide range of geographic,

occupational, and industry locations. We compare charges against federal contractors and noncontractors to assess whether there are differences in who is making the charges, the types of discriminatory treatment alleged, and how allegations of discrimination are handled by the employees and employers. This analysis is the first study to compare discrimination against LGBT people in federal contractor and non-contractor firms. Our findings add to knowledge about an important social and economic problem and about how a nondiscrimination policy for federal contractors can be effectively enforced. Notably, the majority of our data pre-date the Obergefell decision (576 US \_ [2015]) which granted marriage equality. This important decision might have resulted in changes in the types of SOGI claims made by individuals that we find here. For example, discrimination claims stemming from same-sex relationships may have become more prominent following the decision.

## **LITERATURE AND POLICY CONTEXT**

Other than President Obama's executive order on SOGI discrimination, federal law has no explicit bans on SOGI discrimination in employment in the private sector.<sup>2</sup> However, in 2013 the EEOC began allowing anyone who believed that they experienced SOGI-based discrimination to file charges of sex discrimination under Title VII of the Civil Rights Act of 1964 (Pub L. 88-352), arguing that discrimination against LGBT employees is rooted in gender stereotypes and other sex-based considerations.

An increasing number of surveys have been used to assess whether discrimination against LGBT people exists. For example, in a 2013 survey of a random sample of LGBT people by the

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<sup>2</sup> Although federal law has no explicit bans on SOGI discrimination, currently 21 states and D.C. have laws explicitly prohibiting discrimination based on sexual orientation and gender identity. Two other states interpret their current prohibition of sex discrimination to include SOGI claims, and one state prohibits discrimination only for sexual orientation. For a full listing of current state laws prohibiting employment discrimination based on sexual orientation and gender identity, see [http://www.lgbtmap.org/equality-maps/non\\_discrimination\\_laws](http://www.lgbtmap.org/equality-maps/non_discrimination_laws) (last accessed March 9, 2019).

Pew Research Center, 21% of LGBT people reported that they have been “treated unfairly by an employer in hiring, pay, or promotion” (Pew, 2013). Audit studies and wage analyses also document evidence of differential treatment of LGBT job applicants and differential wage outcomes for gay and bisexual male employees compared with heterosexual men with the same characteristics, adding to the weight of evidence that discrimination has been and remains a serious problem for LGBT people in the United States (e.g. Tilcsik, 2011; Badgett, 2001; Klawitter, 2015). The consequences of discrimination include economic inequality and, most likely, increased economic insecurity, as well as less efficient labor markets when labor pools are irrationally reduced.

From these quantitative studies, we see evidence that individual LGBT people experience discrimination, but we know little about the form those experiences take or about who is doing the discriminating—coworkers, supervisors, or customers—and why. Furthermore, few studies can connect discriminatory experiences with disclosure of what is thought to be an employee’s “invisible” status of being LGBT. Qualitative literature on LGBT discrimination fills some of those gaps, documenting the pervasiveness of experiences such as antigay language and jokes, verbal harassment, pressure to conceal one’s LGBT status, denial of spousal benefits, being ignored or shunned, or being fired, as well as the strategies that LGBT people use to manage stigma in the workplace (Connell 2015; Schilt 2006). Although such studies are insightful, they have focused on small samples of LGBT people, such as corporate managers or individuals in a single workplace. Although some of these smaller samples are representative, many are not and thus questions remain about the experiences of LGBT people in the workplace. In this study, we are able to examine approximately 1,000 charges of discrimination, which will shed light on the types of discriminatory experiences that prompt LGBT persons to file a claim of discrimination.

Our qualitative data, drawn from narratives compiled as part of the charging process, provide a much broader view of those experiences in a large sample that cuts across industry, occupation, and location. From sociology, we emphasize that not all experiences will result in a charge, given that a discrimination charge reflects both a naming of an experience in the workplace as discrimination and a decision to take the time and potential risk of retaliation by filing a charge (Felstiner et al. 1980-1981; Berrey, Nelson, and Nielsen 2017). As reflected in the legal consciousness literature, perceiving a harm as discrimination and choosing to file a claim is shaped by how individuals understand the law, including how stigmatized characteristics affect their use of the law and economic disincentives for filing a charge (Ewick and Silbey 1998; Marshall 2005). These literatures frame our analytical approach when analyzing the frequency of certain experiences described in the charges to see which experiences appear to be perceived as discrimination that warrants formal charges. In addition, where we are able, we examine whether and how discrimination experiences vary across intersecting stigmatized characteristics, including race, gender, age, and social class.

Our qualitative analysis of charge narratives builds on prior research by allowing us to delve more deeply into the experiences of discrimination by LGBT workers. Specifically, our research questions for this qualitative report are: 1) What are the different experiences of discrimination claimed by SOGI employees in formal charges?; (2) How do the alleged experiences of discrimination vary between sexual orientation and gender identity charges?; and (3) How do these experiences described in discrimination charges differ between federal contractor and noncontractor employees? We turn next to a description of our research design, data, and analytical approach.

## **RESEARCH DESIGN AND METHODS**

## **EEOC Charge Data**

We use data from the Equal Employment Opportunity Commission, creating a novel dataset of discrimination charges based on sexual orientation and gender identity. These charges may be filed with the EEOC directly or with one of the state or local nondiscrimination agencies that have agreements with the EEOC to share the processing of charges. These data are not publicly available. In order to access these confidential data, all three coauthors applied and were granted access through the Intergovernmental Personnel Act to conduct research on SOGI discrimination. We were granted access to SOGI discrimination data for five years (2012-2016) which included a total of 9,262 charges.

When an individual alleges discrimination, they either mail a charge to the EEOC (or state Fair Employment Practices Agency (FEPA) if that state has a sharing agreement with the EEOC) or physically go into an office to file a charge. These charges are entered into a computer database – Integrated Management System (IMS) – which becomes a centralized repository of all charges tracked by the EEOC. These charge data provided by the EEOC includes the employer’s name, address, industry, and establishment size; the charging party’s age, race, national origin, and sex; the basis for the charge (that is, the protected class, such as sex, sexual orientation, gender identity, race, national origin); the issue charged (e.g. discrimination in promotion, harassment, discharge, etc.); the processing of the charge (e.g. whether it goes to mediation and/or is investigated); and disposition of the charge. We used this quantitative charge database for the first part of the descriptive analysis reported in this paper.

More importantly, for this paper, at intake individuals provide a description of the alleged discriminatory acts that is turned into a charge narrative by the intake official. These narratives sometimes include accompanying information, including investigatory notes and employer

responses. Taken together, these narratives generate qualitative data describing the actual actions and processes that led to perceptions of discrimination. Some intake information, investigatory notes, and other process notes are included in the IMS record of a charge. We were able to use these data to generate our charge narrative database that we used for the majority of the analyses reported in this paper. Based on our discussions with the EEOC, it appears that some investigators, field offices, or FEPAs use hard copy files more than the notes section, but we are unable to access the hard copy files. For those charges with a SOGI allegation, we were provided all of the charge narrative data as a large exported text file from the IMS that compiled all of the charge documents together in one long file.

The narratives vary in detail and length. The core element of each narrative consists of what is called the “Form 5,” and includes the description of the discriminatory event that will constitute the formal charge sent to responding employers. However, not all eligible charges in our narrative database included the Form 5 or had enough information for us to code. To select sample narratives with “codeable” materials, we selected narratives that contained strings of text (e.g., “Civil Rights Act” or “Disabilities Act”) that appear in the Form 5 allegations. We were able to identify 1,041 narratives that included this language which would indicate the presence of a Form 5 (as opposed to other administrative notes that would not produce adequate data for analysis).

The EEOC also collects annual data on the EEO-1 survey for private sector employers who are required to file, which includes federal contractors with 50 or more employees and a contract of at least \$50,000, and noncontractor employers with 100 or more employees. The EEO-1 data include establishment-level records of the employer’s name and address, industry, federal contractor status, and employment totals by race, sex, and occupation.

We took the resulting narrative dataset that we were able to generate from the text file and matched it to the other two datasets described: (1) the EEO-1 data that includes the measure of whether a firm has a federal contract and (2) the EEOC quantitative charge database of all sexual orientation and gender identity (SOGI) charges that contains all relevant information about the charge.

The match with the charge data was straightforward, since the narratives came from the same database and were linked by charge number. The match between the EEO-1 data and the narratives was more complicated because approximately 62% of charges could not be matched, so we could not obtain a measure of contractor status for many narratives. The primary reason for the failure to match was due to the legal requirements surrounding which employers are required to file an EEO-1 form. Small employers with fewer than 50 employees in an establishment and public sector employers are not required to file an EEO-1. The charges that we were unable to match were largely because they were small or public.

Out of the 3,474 charges matched with the EEO-1 data, 964 narratives included the filter language that permitted us to identify the presence of a Form 5. These 964 narratives comprised our final sample for analysis. This sample size is significantly larger than sample sizes in other qualitative studies on experiences with LGBT discrimination, such as those including approximately 30-55 participants (e.g. Connell 2015; Schilt 2006). Because our study focuses on differences between federal contractors and noncontractors, we only include large private establishments since the EEO-1 data that indicate whether a firm is a contractor only includes these establishments. Out of these 964 cases, 534 (55%) were federal contractors and 430 (45%) were noncontractors.<sup>3</sup>

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<sup>3</sup> When we refer generally to "contractors" in this paper, we are referring to federal contractors, defined as private employers with supply and service contracts or subcontracts with the Federal government, "and federally assisted

## Coding Charge Narratives

Our goal in coding the qualitative charge narratives is to capture more detailed information about the various discriminatory experiences of employees that cannot be captured from the quantitative data alone. To this end, we created a codebook from an initial reading of a subsample of narratives. The coauthors regularly met to refine several iterations of testing the codebook. The generation of the final codebook was informed by discrimination, disputing, and legal consciousness theories (Felstiner et al. 1980-1981; Berrey, Nelson, and Nielsen 2017; Ewick and Silbey 1998; Marshall 2005), as well as empirical work on SOGI employment discrimination (Tilcsik 2011; Badgett 2001; Connell 2015; Schilt 2006). For instance, this literature suggests that we will find that charges contain descriptions of gender nonconformity, identity disclosure, or partner/spouse/marriage issues – important factors shaping the discriminatory experiences of employees that cannot be captured in our quantitative dataset. The quantitative data analyzed in our companion report is limited because it does not include any descriptions of actual discriminatory experiences of employees. For instance, if an employee was fired after disclosing their sexuality to a co-worker or manager, the quantitative charge data would only indicate that the employee was terminated but would not provide the details surrounding the termination. Our qualitative coding of the charge narratives allows us to capture more context surrounding the employee’s charge.

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construction contracts and subcontracts that exceed \$10,000 or that will (or can reasonably be expected to) accumulate to more than \$10,000 in any 12-month period.” See OFCCP, <https://webapps.dol.gov/elaws/elg/discrim.htm> last accessed March 11, 2019.

Given, however, our methodological approach to identify federal contractors for this work, our data are limited to a narrower subset of federal contractors. For this study, federal contractor firms are identified as federal contractors through matching with the EEO-1 dataset and so our measure of federal contractors are those firms required to file an EEO-1 report who report a contract. Accordingly, federal contractors in our analyses include those prime contractors or first-tier subcontractors (subject to Executive Order 11246) with 50 or more employees and a contract or subcontract in the amount of \$50,000 or more. All other firms in the analyses are classified as noncontractors.

Because of our coding of the charge narrative content, however, we were able to discern what details are captured within the narrative as compared to the same variables that are entered into the IMS charge database, including the demographics of the charging party and the issues and bases alleged in the discriminatory event. Although issues alleged are included in the quantitative database, we included additional codes for some of the alleged issues that capture greater detail regarding the allegations. For example, we have included a code for “restroom/locker room access” under terms and conditions which could be particularly likely to arise in gender identity cases.

For demographic data such as race and ethnicity, sex, age, and disability, the data in both the charge database and in the charge narratives are incomplete, as detailed in our results section. As detailed in our results section, we are sometimes able to capture additional detail not found in the database as part of our analysis of the charge narratives. This is particularly the case with respect to gender, where we have coded a finer grained measure of gender to incorporate variation in gender identities. Our coding of gender includes the following categories: female, male, female-to-male, male-to-female, transgender (used when coder is unable to determine whether MTF or FTM), nonbinary, and unknown. However, we observed very few cases of nonbinary identities in our coding and, due to confidentiality restrictions with the EEOC, we do not include these cases in our results. We also added a variable to capture sexual orientation of the charging parties, including bisexual, gay male, lesbian, and heterosexual. For these two variables, we coded individuals based on either a statement within the charge narrative that identified the gender identity or sexual orientation or strong evidence that allowed us to make an inference. For sexual orientation, this evidence included things such as an individual being called gay or treated as nonheterosexual by coworkers. These details were combined with the

individual's sex, when available, to identify sexual orientation as gay or lesbian. Bisexual was only coded if specified, however, which has undoubtedly resulted in an undercount of bisexual charging parties (see results for details). Further, across all categories for both variables there is an undercount to the degree that we were not able to identify sexual orientation or gender identity.

In addition to these items that flesh out data contained in the charge database, we also have added variables that capture detail about the alleged discrimination and the circumstances under which discriminatory treatment might be more likely to occur. In particular, we have included measures of the types of harassing behaviors experienced by charging parties, whether they have disclosed their sexual orientation or gender identity in the workplace and to whom, and whether they are transitioning their gender during their employment. Further, we have incorporated variables to examine whether and how employees are using employer internal grievance process, to whom they make their complaints (e.g., managers or HR), and whether the employer responds in a positive or negative manner. We also have coded for the employee's articulation of the reason the employer provided for the adverse employment action (e.g., business downturn leading to discharge, customer complaints about employee behavior, etc.). These details shed light on the more formal procedural aspects of a discrimination allegation, emphasizing an employer's response.

We trained four undergraduate coders to learn the codebook and code all of the narratives. To ensure the greatest level of consistency across coders, we met regularly to test the codebook and discuss any inconsistencies or questions that arose. Upon completion of the training, each coder received a subset of narratives to code. After completion of their initial set, they were asked to review and add any missing codes from another coder's set. We asked that

the coders not remove any discrepant codes, but document the changes they would make. The PIs then reviewed those notes and made changes, where necessary.

### **Analytical Strategy**

We use the qualitative codes to develop a taxonomy of types of SOGI discrimination reported by workers, which will reveal employees' perceptions of what constitutes a meritorious claim of discrimination, including the type of experiences and the alleged perpetrator of discrimination (e.g. boss, coworkers, customers, or human resources). We undertake a qualitative content analysis across a range of variables. For our policy assessment, this taxonomy will allow us to compare the types of discrimination and relative frequency of those types between contractors and noncontractors.

Before turning to the results of our qualitative content analysis, we first report broader descriptives from the larger charge dataset. We then turn to our analysis of the trends in the narratives, focusing on differences discriminatory experiences between contractor and noncontractors.

## **RESULTS**

### **Quantitative Charge Database**

Overall, the charges from the quantitative database did not reveal stark differences between federal contractors and noncontractors. For both contractors and noncontractors, approximately 84% of the charges were sexual orientation and 20% were gender identity (sums to more than 100% due to some charges containing both sexual orientation and gender identity allegations). The charges were comparably distributed between states with SOGI nondiscrimination laws and those without such laws for the two groups (see Table 2).

Approximately 54% of charges against contractors were from states with SOGI laws, compared to 53% for charges against noncontractors.

Demographically, charging parties were quite similar for contractors and noncontractors. For contractors, approximately 28% of charging parties were Black, 32% White, and 9% Hispanic; for noncontractors, approximately 26% of charging parties were Black, 31% White, and 9% Hispanic. The gender breakdown between charging parties for contractors and noncontractors was also nearly identical. Approximately 39% of charging parties were female for contractors and 48% male; for noncontractors, about 37% of charging parties were female and 48% male (the remaining were missing data). These demographic patterns, therefore, are fairly comparable for contractors as compared to noncontractors.

We can also examine differences between federal contractors and noncontractors with respect to the industry in which the charging party was working. For federal contractors, the most common industries were health care and social assistance (17%), manufacturing (16%), retail (11%), administration and support and waste management and remediation (11%), and transportation and warehousing (8%). In comparison, for noncontractors the most common industries were retail (24%), health care and social assistance (18%), accommodation and food service (15%), manufacturing (10%), and administration and support and waste management and remediation (6%). Four out of the five top industries are the same for charged federal contractors and noncontractors, but the prevalence of charges across industries varies notably. For noncontractors, a higher proportion of charging parties are working in retail or accommodation and food service, whereas manufacturing and administration and support and waste management and remediation were more common for federal contractors.

Turning to the charge characteristics, some small differences emerge in other bases of discrimination alleged. For federal contractors, the most common bases of discrimination alleged (in addition to a SOGI basis) were non-SOGI gender bases (53%), retaliation (46%), race (19%), disability (18%), and age (9%). Although all SOGI charges fall under sex discrimination, the sex/gender category entails additional non-SOGI sex bases, such as discrimination based on sex (e.g. pay inequality between men and women) and pregnancy. For noncontractors, the most common other bases of discrimination alleged were gender (56%), retaliation (43%), race (18%), disability (14%), and age (7%). Although the most common bases of discrimination co-existing with a SOGI claim were the same for both contractors and noncontractors, the non-SOGI gender bases were slightly more common for noncontractors, whereas retaliation, disability, and age were more slightly more common for contractors.

We next look at the issues that the charging parties alleged as discriminatory actions by the employer. Many charges contain several alleged issues, resulting in percentages summing to more than 100%. For contractors, the most common issues alleged include discharge (55%), harassment (48%), terms and conditions (29%), discipline (19%), sexual harassment (12%), and constructive discharge (8%). For noncontractors, the most common issues alleged include discharge (55%), harassment (50%), terms and conditions (30%), discipline (16%), sexual harassment (14%), and constructive discharge (11%). Once again, the overall pattern of the most common issues alleged is the same for both contractors and noncontractors, with slight variation in the proportion of charges containing these issues. In particular, harassment, terms and conditions, sexual harassment, and constructive discharge were slightly more common for charges against noncontractors, whereas discipline was slightly more common for charges against contractors.

Finally, we look at the charge outcomes to assess whether a charge was found to be meritorious. Charges are considered meritorious if a monetary or nonmonetary benefit accrued to the charging party during the EEOC or FEPA's handling of the case and/or if there was a finding of cause. Monetary benefits include items such as back pay, fringe benefits, compensatory damages, punitive damages (primarily under state law), or attorney's fees. Nonmonetary benefits include items like policy changes, training, or accommodations. Overall, 18% of the charges were found to have merit. For federal contractors, approximately 16% of charges resulted in a merit outcome, compared to 19% of charges against noncontractors.

### **Charge Narratives**

Although the charge database provides an overview of select characteristics of parties and their allegations, the details about their alleged discriminatory treatment and how the parties navigated the work environment are better found in the charge narratives. In this section, we describe overall patterns found in the stories of the charge narratives regarding employee experiences with SOGI discrimination, including: demographics of charging parties, other bases alleged, sub-types of issues alleged, types of harassing behaviors, use of an employer's internal grievance process, employer's reason for the adverse employment action, disclosure of sexual orientation or gender identity in the workplace, and gender transitioning in the workplace. We highlight differences between federal contractors and noncontractors across these variables.

#### *Demographics*

Although demographic data is contained in the quantitative charge dataset for some charging parties, as detailed in the above section on Quantitative Charge Database results, much of this information is missing or lacks additional detail regarding non-binary gender categories. In addition, the charge dataset does not include demographics on the sexual orientation of the

charging party. For the 964 charges in our sample, we coded for gender, sexual orientation, and disability when this information was available within the narrative.

For gender, we included mutually exclusive codes for male and female, and a variety of other gender identity codes: transgender, Female-to-Male (FTM), Male-to-Female (MTF), and nonbinary. Overall, approximately 48% of our charging parties are male, 35% female, 8% MTF, 2% FTM, 2% transgender, and 5% Unknown (Table 2). The number of nonbinary charging parties was extremely small and thus we have excluded this category from our reporting due to confidentiality restrictions with the EEOC. Comparing gender between sexual orientation and gender identity charges, there are notable differences that are primarily driven by the expected relative absence of MTF, FTM, or transgender charging parties in the sexual orientation charges. Although males are the majority (55%) of sexual orientation charges, individuals whose expressed gender identity is female or MTF comprise the majority (61%) of gender identity charges.

We next look at differences between federal contractors and noncontractors. Among the sexual orientation charges, there was a great deal of similarity in the gender of the charging parties between contractors and noncontractors (Table 2). For gender identity charges, however, some differences emerged. For contractors, there was a higher proportion of charging parties who are transgender (14% vs 8%) and MTF (36% vs 44%), and slightly more who are female (22% vs. 21%). In contrast, there was a higher proportion of charging parties for noncontractors who are male (17% vs 12%) and who are FTM (13% vs. 8%).

For sexual orientation, we included codes for gay, lesbian, bisexual, and heterosexual. Overall, approximately 41% of our charging parties are gay, 25% lesbian, 4% heterosexual, 1% bisexual, and 30% unknown (Table 3). As described in our methods section, it is important to

note that bisexual charging parties are particularly undercounted due to our coding approach which only captured a bisexual identity if specifically stated but inferred other identities. The sexual orientation of charging parties in sexual orientation charges was relatively similar to the overall pattern. Gender identity charges have a distinct distribution, but this is largely shaped by the missing data in 75% of gender identity charges on sexual orientation. Of those with data, about 11% are gay, 10% lesbian, and 2% each are heterosexual or bisexual.

For sexual orientation charges, there was some similarity between the sexual orientation of charging parties for federal contractors and noncontractors. Federal contractors had a slightly higher proportion of lesbian charging parties compared to noncontractors (28% vs 26%), and noncontractors had a slightly higher proportion of heterosexual (5% vs. 3%) and bisexual (3% vs. .02%) charging parties compared to contractors. Once again, there was greater variation between contractors and noncontractors for the gender identity charges. As compared to noncontractors, contractors had a greater proportion of charging parties who are lesbian (12% vs 8%). For noncontractors, as compared to contractors, a notably greater proportion of charging parties were gay men (17% vs 7%), and more were also bisexual (4% vs 0%) or heterosexual (3% vs 1%). It is important to note, however, that 80% of charges against contractors and 69% of charges against noncontractors that alleged gender identity discrimination did not include information about the sexual orientation of the charging party.

We also coded for whether a charging party mentioned a disability within the charge narrative (Table 4). Overall, approximately 18% of our charges included mention of a disability. Disability was mentioned in a greater proportion of sexual orientation charges than gender identity charges, at 19% compared to 14%. For the sexual orientation charges, a slightly higher proportion of charges against contractors mentioned a disability than those against

noncontractors (20% vs 18%). For gender identity, the difference was more notable with 17% of charges against contractors mentioning a disability compared to 11% for noncontractors.

In summary, the patterns that emerge from our coding of demographic information about charging parties are suggestive of some distinctions in the experiences between employees of federal contractors compared to noncontractors. In particular, a greater proportion of charging parties for federal contractors were FTM, transgender, lesbian, and/or (by a small margin) female. For noncontractors, a greater proportion of charging parties were male, MTF, gay, bisexual, and/or heterosexual.

### *Intersectionality*

We were able to examine the intersections of race and other demographic characteristics to gain a better picture of how multiple stigmatizing characteristics might play a role in the filing of SOGI charges. For these analyses, we draw on the race variable contained in the quantitative charge dataset. As with our results reported under the quantitative charge database section, we include only the charges with information on race because the lack of this information is primarily a function of state FEPA practices of data collection. The results reported in this section, then, reflect the distribution of race within gender or sexual orientation categories for the charges with information on race. We do, however, include the “unknown” category for our gender and sexual orientation categories because these data come from our charge narratives. We believe the absence of information for these variables could be meaningful given that decisions are made to include or exclude these details from the narrative description.

We first report the distribution of race across our detailed gender categories. As reflected in Table 5, about 53% of the females filing SOGI charges are African American, with 45% White. This is essentially reversed for males filing SOGI charges, with 43% African American

and 52% White. Individuals identified as MTF have a racial composition that looks similar to that of those identified as males. FTM individuals, however, are notably different, with approximately two-thirds being White and one-third African American, and a somewhat similar pattern for those who are transgender. As indicated in Table 2, however, the proportion of the sample in the FTM and transgender categories was small at about 2% each, which could generate the appearance of racial differences that we might not see in a larger sample. Out of those with missing data on gender, 60% are African American. For gender, however, the missing data category is relatively small at less than 5% of the total sample of charges. Patterns broken down by sexual orientation and gender identity charges look quite similar to the overall patterns.

In Table 6, we report the distribution of race across our sexual orientation categories. Perhaps unsurprisingly, the racial distribution for gay men closely mirrors that of the male gender category, and the distribution for lesbians closely mirrors that of the female gender category. The heterosexual and bisexual categories are both quite small, at 3.5% and 1% of the total sample of charges. The size of the categories overemphasizes the representation in smaller racial categories, such as Native American for heterosexual. We do see a fairly even distribution between White and African American individuals in both of these categories. For the sexual orientation variable, the unknown category is quite large at 30% of the total SOGI charges, 21% of sexual orientation charges, and 75% of gender identity charges. Given the missing data for the gender identity charges, if we look only to the sexual orientation charges we can see that African Americans are disproportionately represented with over half of the unknown category.

By examining intersections of race with sexual orientation and gender identity, we shed some light on how disputing behaviors and discriminatory experiences might be shaped by possessing multiple stigmatizing characteristics. In particular, we see that for females and,

relatedly, lesbians, African Americans are the majority of those with a valid response on the race variable. In all other gender categories and sexual orientation categories (with the exception of the small bisexual category), White individuals are the majority of those filing charges for whom we have data on race. These findings raise questions about whether African American women are more likely to experience SOGI-related discrimination in the workplace. These data, however, might simply reveal disputing behaviors, meaning that African American women are the most likely to pursue a charge of discrimination. Similarly, for other gender and sexual orientation categories, White individuals might be more likely to experience discrimination and/or more likely to file a charge of discrimination.

In addition, there is an overrepresentation of African Americans in the missing data categories for both gender and sexual orientation. This suggests that something occurs during the charging process that results in the lack of inclusion of this information in the charge narratives. It is possible that African American charging parties are less forthcoming about this information, or that administrative personnel do not ask or include the information during the charge intake process.

## **Charge Characteristics**

### *Issues*

The issues alleged by charging parties are captured in the charge database. In analyzing the charge narratives, however, we coded for sub-issues that appeared particularly relevant for SOGI claims. Specifically, we looked more closely at benefits, hiring, and terms and conditions of employment.

For benefits, we coded for claims relating to benefits for a same-sex partner and for medical benefits related to sexual orientation or gender identity (Table 7). Overall,

approximately 3% of charges contained benefits-related allegations, with about 1% each containing allegations related to medical or partner related benefits. Benefits-related charges were more common for gender identity charges, with about 7% of charges involving benefits. This was driven by medical benefits charges, which are about 6% of all of the gender identity charges. Overall, about 4% of charges against contractors are benefits charges as are 2% against noncontractors. Although the number of benefits claims was fairly small, there was nonetheless a notable difference in the gender identity charges based on employer type, with 9% of charges against contractors and only 3% of charges against noncontractors including a claim related to medical benefits. These claims were related to requests for coverage for surgery or medication related to gender identity.

For hiring, we examined the point in the hiring process at which time an adverse employment action occurred: failure to interview, failure to hire, failure to rehire, or whether an offer was rescinded. Overall, about 5% of charges involved a failure to hire, 0.5% a failure to hire, 1% a failure to rehire, and 1% an offer rescinded (Table 7). For sexual orientation charges, hiring issues were fairly rare with failure to hire the most common at 4%. For gender identity charges, however, they were more prevalent. Although all of the hiring issues were more common for gender identity charges than sexual orientation charges, the failure to hire issue was most prominent with 10% of all gender identity charges involving a failure to hire. For sexual orientation, failure to hire was slightly higher for contractors than noncontractors. For gender identity, however, the reverse pattern emerged. Approximately 8% of gender identity charges against contractors and 13% against noncontractors included a failure to hire issue. Notably, other than the failure to rehire, these hiring issues were contained in a higher proportion of gender identity charges against noncontractors than contractors.

Finally, we examined terms and conditions issues that were potentially more likely to surface in SOGI charges, including dress codes, professional development opportunities, and restroom or locker room access. Overall, approximately 3% of charges included each of these terms and conditions issues (Table 7). These terms and conditions issues were much less common in sexual orientation charges than in gender identity charges. In particular, approximately 12% of gender identity charges contained restroom or locker room issues, compared to only 1% of sexual orientation charges, and about 9% of gender identity charges dealt with dress code issues as compared to 2% for sexual orientation. These findings emphasize that gender-restrictive policies are relatively common issues in gender identity charges.

For terms and conditions, the most notable distinction between contractors and noncontractors was the higher proportion of restroom and locker room access issues for contractors in both sexual orientation and, in particular, gender identity charges. For sexual orientation charges, about 2% of contractors and 0.3% of noncontractors included an issue related to restroom or locker room access; for gender identity charges, 14% against contractors and 9% against noncontractors included this issue.

Our analyses of these additional issues indicate that failure to hire (10% vs. 4%), medical benefits (6% vs. 0.2%), access to restrooms (12% vs. 1%), and dress code violations (9% vs. 2%) were more commonly alleged in gender identity charges than sexual orientation charges. Further, charges surrounding medical benefits (1.5% vs. 0.5%) and restroom and locker room access (3% vs. 2%) were more common for contractors than for noncontractors.

### *Actors*

In addition to capturing the alleged adverse employment actions, we coded for the actors allegedly engaged in discriminatory behavior, often identifying more than one category in a

charge. Overall, approximately 86% of our charges included an allegation identifying a manager, supervisor, or executive as the actor; 31% identified coworkers; 13% identified human resources; and 2% identified clients (Table 8). When looking at all charges in which an alleged actor is identified, the distributions for both sexual orientation and gender identity charges look quite similar to the overall distribution. Further, although there are higher proportions of alleged actors in all groups for noncontractors, the differences are relatively small. The most notable differences are the greater proportion of charges against noncontractors identifying coworkers and executives or supervisors as alleged actors.

### *Harassment Behaviors*

The charge narratives provided the opportunity to take a closer look at the type of harassing behaviors experienced by employees working for contractors and noncontractors. Overall, 68% of our charges included harassment behaviors, with 57% including allegations of verbal harassment and 16% nonverbal harassment (Table 9). We examined a variety of types of verbal and nonverbal harassment. Within verbal harassment, individual disparagement included negative comments, slurs, or ostracism directed against the individual employee. General disparagement regarding sexual orientation included making jokes or expressing stereotypes about LGBT people. We also captured disparagement related to a relationship, including a spouse or partner. Other verbal harassment focused on gendered issues, including gender disparagement related to the way an individual dressed or behaved, and misgendering which included using incorrect pronouns or not using the charging party's preferred name. Finally, we coded verbal harassment that constituted threats, such as threats to physically harm or expose the charging party. Physical harassment behaviors were more narrow, and primarily included

property damage like defacing an office, and acts of physical violence or physical aggression. We also coded for both verbal and physical sexual harassment.

Harassment behaviors were strikingly more common in sexual orientation charges than gender identity charges, with 70% of charges alleging harassment compared to 58% in gender identity charges (Table 9). This difference is driven in large part by the greater proportion of sexual orientation charges that include sexual harassment allegations at 17% compared to 7% of gender identity charges. Within verbal harassment, harassment based on group stereotypes and harassment involving misgendering were more common for gender identity charges.

Looking to differences between federal contractors and noncontractors for sexual orientation charges, approximately 69% of charges against contractors and 71% of charges against noncontractors included harassment behaviors. A similar proportion included verbal harassment between contractors and noncontractors, but a slightly higher proportion of charges against contractors included allegations of nonverbal harassment (18% vs 15%). Overall, for sexual orientation charges, our findings indicate that several types of verbal harassment were reported in a greater proportion of charges against noncontractors, including direct individual disparagement, general disparagement of LGBT individuals, and sexual comments. Individual verbal harassment represented the greatest difference based on contractor status, with 40% of charges against contractors and 45% against noncontractors including individual disparagement. Contractors, however, had a somewhat higher proportion of harassment behaviors involving verbal threats as compared to noncontractors. For nonverbal harassment, the most notable difference between contractors and noncontractors was a slightly higher proportion of charges that included physical violence for contractors as compared to noncontractors. Physical sexual

harassment was higher for noncontractors, echoing the higher proportion of charges for noncontractors with verbal sexual harassment.

Some differences emerged between contractors and noncontractors for gender identity charges, as well. There was a slightly higher proportion of charges against contractors that included harassment behaviors at 60% compared to 55% of noncontractors (Table 9). Approximately 55% of gender identity charges against contractors included verbal harassment, compared to 50% of those against noncontractors. Individual disparagement was alleged in a higher proportion of charges against contractors than noncontractors (45% vs 40%), and verbal sexual harassment was also reported in a higher proportion of charges against contractors (7% vs 3%). Most notably, misgendering was reported less against contractors at 9% as compared to 15% as of charges against noncontractors. Other types of verbal harassment were relatively similar for contractors and noncontractors.

Nonverbal harassment was also higher for contractors for the gender identity charges as compared to noncontractors. Overall, 21% of charges against contractors included nonverbal harassment compared to only 8% of those against noncontractors. This was particularly seen with respect to violence, with 10% of charges against contractors alleging physical violence compared to 4% of those against noncontractors. In addition, allegations of property damage were included in a higher proportion of charges against contractors at 4%, with no similar allegations in charges against noncontractors. Although verbal sexual harassment was higher (7% vs. 3%) for contractors in gender identity charges, physical sexual harassment was slightly higher (3% vs. 1%) for noncontractors.

These findings show important distinctions between the types of harassment behaviors experienced by those claiming sexual orientation discrimination as compared to gender identity

discrimination. Overall, harassment is more commonly alleged in sexual orientation charges (70%) than gender identity charges (58%), and the higher prevalence of sexual harassment in sexual orientation charges plays a huge role in generating this difference. Although verbal harassment is reported in a similar proportion of charges for both gender identity and sexual orientation, gender identity charges include a greater proportion of group stereotyping (18% vs. 10%) and misgendering (12% vs. 2%) than is seen in sexual orientation charges.

In addition, the results highlight differences in harassment allegations between federal contractors and noncontractors. For gender identity, charging parties working for contractors reported more verbal harassment than those working for noncontractors, including individual disparagement and sexual harassment. The opposite was the case for charging parties alleging sexual orientation discrimination, where noncontractors had a higher proportion of verbal harassment charges including individual disparagement and sexual harassment. Misgendering, however, was more common for those charging noncontractors with gender identity discrimination. With respect to nonverbal harassment, the patterns are similar between sexual orientation and gender identity claims. In both cases, a higher proportion of physical violence was reported in charges against contractors, and a higher proportion of physical sexual harassment in charges against noncontractors.

### *Meritorious Outcomes*

These data also permit examination of factors that could influence whether a charge results in a meritorious outcome. As previously noted, we define a meritorious outcome as one in which the charging party receives a monetary or nonmonetary benefit and/or the EEOC issues a cause finding. In our sample of charges, approximately 16% received a finding of merit, with 19% of charges against noncontractors and 14% of those against contractors resulting in a merit

charge. These figures differ slightly from those reported earlier in the quantitative charge data, but mirror the same pattern of higher merit outcomes for noncontractors.

As reflected in Table 10, the proportion of meritorious charges varies across issue type. Focusing on the finer-grained issues that we coded in the charge database, we found that approximately 20% of benefits charges resulted in a merit outcome. Within benefits charges, approximately 40% of medical benefits charges resulted in a meritorious outcome; this was similar across both sexual orientation and gender identity charges. It is important to note that a relatively small number of charges involved medical benefits. Nonetheless, the proportion resulting in merit outcomes is large enough to suggest that this type of charge is viewed as a strong case by employers and the EEOC. Partner benefits charges were extremely rare for gender identity cases, explaining the merit outcomes in 100% of those cases.

Both physical and verbal sexual harassment charges also had higher merit outcomes, at 31% and 24% respectively. These charges were less common among gender identity charges, but had high merit outcomes when they did occur. For sexual orientation, sexual harassment charges were more common and verbal sexual harassment, in particular, resulted in an elevated proportion of meritorious outcomes at 29%. For both verbal (21% vs. 18%) and physical harassment (20% vs. 12%) that was nonsexual (e.g. individual disparagement, stereotypes, partner disparagement, etc.), the proportion of merit outcomes was higher for gender identity charges than sexual orientation charges.

Under terms and conditions, meritorious outcomes are high across all of the finer-grained items that we captured. The number of charges in these groups is not large, but the combined number of these similar type of charges and the proportion deemed meritorious still makes them notable. Dress code and restroom and locker room access are particularly likely to result in merit

outcomes at 30% and 27% respectively, and the proportion found meritorious in these groups is even higher for gender identity charges.

## **Disclosure**

Disclosure of sexual orientation or gender identity in the workplace can shape whether and how discrimination occurs. In some cases, individuals choose to disclose through overt statements; in others, the identity is either inadvertently disclosed (e.g. through awareness of a relationship with someone of the same sex) or generally assumed by coworkers, perhaps based on stereotypes. Overall, approximately 48% reported that their sexual orientation or gender identity was known, and 22% described a specific action taken by themselves or others to disclose their identity in the workplace (figures not reported in Table 11).

### *Sexual Orientation*

For sexual orientation charges in Table 11, 49% reported that others were generally aware of their sexual orientation even though they had taken no specific action to disclose the information, and 19% described a specific action taken by themselves or others to disclose their identity (Table 11). About 51% of those working for noncontractors and 47% of those working for contractors reported that others were generally aware of their sexual orientation despite a lack of overt action to disclose. Of these individuals who reported others were aware without explicit disclosure, about 90% indicated that their sexual orientation was generally known or assumed. In addition, out of those who reported no specific disclosure action, approximately 10% indicated that their sexual orientation was known due to a relationship with a same-sex partner. In these cases, they did not take a particular action to disclose the relationship but individuals came to know about the relationship through other routes, such as seeing the partner's name on paperwork. These patterns were relatively similar between contractors and noncontractors

(approximately 22% for each group). In some cases, coworkers or supervisors incorrectly concluded that a charging party had a non-heterosexual orientation (7% overall). Out of those whose non-heterosexual orientation was assumed, about 4% of employees working for contractors and 7% of those working for noncontractors indicated in their charge that they are heterosexual.

In addition, approximately 21% of those working for contractors and 16% of those working for noncontractors reported specific actions that resulted in the disclosure of their sexual orientation. These actions were most often taken by the employee, but some disclosures were made by other individuals who learned of the employee's sexual orientation. Out of those who reported a specific action, about 34% of charging parties working for contractors and 42% for noncontractors described actively sharing their sexual orientation at work by telling others. And, out of those reporting disclosure actions, about 45% of those working for contractors and 43% of those working for noncontractors indicated that they intentionally made a relationship with a same-sex partner known, thereby disclosing their sexual orientation. Finally, of those reporting a disclosure action, about 22% working for contractors or noncontractors indicated that their sexual orientation was involuntarily disclosed by someone else in the workplace.

We also looked at who charging parties identified as knowing about their sexual orientation. Supervisors, managers, and executives was the category most tied to disclosures of sexual orientation, for 84% of charging parties who mentioned disclosure and were working for contractors and 82% of those working for noncontractors. Coworkers was the next most named category, at about 47% of those working for contractors and 50% of those working for noncontractors who mentioned disclosure. Human resources was identified slightly more by those who had a disclosure and were working for contractors at 14% compared to 8% for those

working for noncontractors. And clients or customers were the least common group identified, but were named slightly more often for those working for noncontractors at 4% compared to 1% for those working for contractors.

For sexual orientation, then, in about 49% of the charges employees indicated that people were aware of their sexual orientation even when they did not engage in active disclosure. In contrast, active disclosure of sexual orientation was not frequently mentioned in the charge by those working for either contractors (21%) or noncontractors (16%), although it was more common for those working for contractors. When employees did indicate active disclosure, the action was undertaken by the employee the majority of the time rather than involuntarily (37% vs 22%). Nonetheless, it is notable that almost a quarter of those reporting active disclosure indicated that it was involuntary. Results also indicate that individuals in a supervisory type position are the most likely to be named as individuals aware of a charging party's sexual orientation (84% overall).

### *Gender Identity*

For gender identity charges, about 41% of charging employees indicated that others were aware of their gender identity even in the absence of active disclosure, and 37% indicated that their gender identity was actively disclosed by themselves or other individuals (Table 10). About 44% of employees working for contractors and 37% of those working for noncontractors reported that others were aware of their gender identity even when they had not actively disclosed the information. Of these employees, about 97% of those working for contractors and for noncontractors indicated that their transgender identity was generally known or assumed. For both those working for contractors and those working for noncontractors, less than 1% of those who did not actively disclose indicated that their gender identity became known because of their

relationship with a partner. In addition, less than 1% indicated that their gender identity was incorrectly assumed.

Over a third (39%) of those alleging gender identity discrimination indicated that their gender identity was actively disclosed; this was about the same for both those working for contractors and those working for noncontractors. Of those who indicated active disclosure, about 41% of those working for contractors and 36% for noncontractors shared their identity in the workplace, and about 1% of charging parties for both employer types disclosed by making known a relationship with a partner. Involuntary disclosure, however, was a more common means of active disclosure in gender identity charge. Out of those who indicated active disclosure, 35% of charging parties for contractors and 18% of those working for noncontractors reported involuntary disclosure. Charging parties described involuntary disclosures occurring in cases such as when some individuals were aware of their gender identity or planned transition and then shared the information with others without permission.

For gender identity, a similar overall pattern emerges to that of sexual orientation charges in terms of who charging parties identified as knowing about their identity. The group most named once again includes supervisors, managers, and executives, at about 87% of those who discussed disclosure for both contractors and noncontractors. Coworkers were the next group named by charging parties, at 54% of those discussing disclosure who work for contractors and 56% for noncontractors. Approximately 19% of charging parties working for contractors who discussed disclosure indicated that human resources knew about their gender identity, and 15% of those working for noncontractors. Finally, much like sexual orientation, clients were the least most common group named for those alleging gender identity charges; none of those working for

contractors and less than 1% of those working for noncontractors who discussed disclosure identified clients.

Overall, for gender identity, employees were less likely to indicate that people assumed their identity than with sexual orientation (41% vs 49%) and active disclosure was much more common than with sexual orientation (37% vs. 19%). In addition, relationships played a much smaller role in disclosure for gender identity, as compared to sexual orientation (9% vs. 3%). Notably, involuntary disclosure was much more common for gender identity charges (35%) for those working for contractors in comparison to sexual orientation charges (22%), with over one-third of disclosure actions being involuntary.

#### *Disclosure Nexus*

Finally, we evaluated whether adverse employment actions occurred in close proximity to disclosure of sexual orientation or gender identity, which we call a “disclosure nexus.” Overall, about 10% of charges included an adverse employment action that occurred close to the time of disclosure. In almost three-quarters of these charges, the adverse employment action involved harassment and/or termination that appeared to be in response to the charging party’s sexual orientation or gender identity becoming known. For sexual orientation, 11% of charges against contractors had a nexus to a disclosure, compared to 5% for noncontractors (Table 10). For gender identity charges, this nexus appeared in approximately 14% of charges against contractors and 17% of charges against noncontractors. Thus, gender identity charges were more likely to include a disclosure nexus (15% vs 8%), and a greater proportion of SOGI charges against contractors included a disclosure nexus than those against noncontractors.

#### **Transitioning**

We also examined charging parties' experiences with gender transitioning while on the job. We captured transitioning experiences regardless of whether they were the subject of a negative employment experience in order to gain insight into how employees navigated changes related to their gender identity. Given the very low percentage of sexual orientation charges that contain transitioning experiences, we focus on describing transitioning in gender identity charges (Table 12). Overall, approximately 19% of gender identity charges described transitioning experiences, with 21% of charges against federal contractors and 17% of charges against noncontractors.

The most common transitioning experiences discussed in these charges involved benefits or access to facilities, such as seeking insurance coverage for medical expenses related to transitioning or access to restrooms or locker rooms. About 8% of gender identity charges described benefits transitioning experiences, and these were more common for employees of federal contractors (12%) than those of noncontractors (3%). Approximately 7% of charges reported experiences related to gender expression, including dressing to reflect gender identity or surgical or hormonal changes. Gender expression experiences were slightly more common for noncontractors (8%) than for contractors (5%). Language-related transitioning experiences were also reported in 4% of charges, including requests for name changes, pronoun usage, and record or document changes. These experiences were reported in about 5% of charges against noncontractors, and 3% of those against contractors.

About 10% of charging parties described negative responses to transitioning on the job, whereas about 4% reported supportive ones, and sometimes people reported both positive and negative responses. Negative responses were fairly comparable for contractors (11%) and noncontractors (9%). Negative responses were somewhat higher for language-related

transitioning experiences, with about 71% receiving a negative response as compared to about half of transitioning experiences related to benefits/facilities or gender expression (not reported in Table 12). Negative responses included refusal to agree to a change related to transitioning, such as a request to change a name on records, and comments or questions that reflected an unsupportive environment.

Supportive responses were mentioned in approximately 4% of gender identity charges, with about 3% of charges against federal contractors and 5% against noncontractors. There was not a particular type of transitioning experience that was more likely to garner a supportive response – about 15% of transitioning experiences in each subgroup received a supportive response (not reported in Table 12). Supportive responses included making requested changes, holding meetings to educate coworkers, and assisting employees in navigating administrative or benefits issues. A small number of charges also described employers who entered into a discussion or a plan with employees regarding how they would manage the transition; this was mentioned in about 3% of gender identity charges overall, and about 4% of federal contractors and 1% for noncontractors.

In sum, discussions of transitioning experiences were primarily centered on benefits/facilities for employees of contractors and gender expression for employees of noncontractors. Supportive responses were rarely discussed (only 0.7% of charges were coded as having a supportive response), perhaps unsurprisingly given that these are employees filing charges of discrimination. Negative responses were more common (1.8%), mainly for language-related transitions, suggesting this might be an area that particularly warrants additional attention.

## **Grievance Process**

We also examined whether employees used employers' internal grievance processes to report concerns related to discrimination. In employment discrimination lawsuits, making a report of discrimination – formally or informally – is an important factor in determining employer liability for the discriminatory conduct. Employees who cannot prove that their employer was aware of discriminatory conduct are unlikely to establish a strong case. We found that a slight majority of charges included mention of the use of an internal grievance process at 53% (Table 13). Sometimes this included a formal process, whereas in other cases employees made a more informal complaint about discriminatory treatment to a supervisor or coworker.

Overall, there was little difference between contractors (52%) and noncontractors (55%) in the proportion of charges that mentioned the employee had expressed a grievance to their employer. There were differences in the ways that employees engaged in the grievance process for sexual orientation and gender identity charges, though. For sexual orientation charges, a somewhat lower proportion of charges for contractors (52%) than noncontractors (58%) included mention of the grievance process. In contrast, for gender identity charges, 54% of charges against contractors included mention of the grievance process, but only 40% of charges against noncontractors. As reflected in Table 13, the patterns of employers' responses to employees' use of the grievance process closely mirrored whether an employee used the process; in other words, if an employee engaged in the process, most employees reported that their employer either gave a negative (19%), positive (7%), or no response (32%) to their complaint. Relative to the employees' use of the grievance process, these patterns looked the same for contractors and noncontractors and sexual orientation and gender identity charges.

Overall, failure to mention the use of the grievance process in the charge narrative does not, of course, necessarily mean that employees are not making complaints. However, the

presence of internal grievances in only about half of the charges raises questions about the degree to which employees filing SOGI discrimination charges are making complaints to their employers. In addition, these results suggest that individuals working for noncontractors might be particularly unlikely to file internal grievances for gender identity claims.

## **Conclusion**

This study provides insight into the types of discriminatory experiences that drive LGBT individuals to file formal charges of discrimination against their employers. By analyzing the charge narratives themselves, we gain direct insight into the ways that individuals are engaging with a developing body of law in order to seek redress for discrimination. These data reveal important differences between sexual orientation and gender identity charges, which demonstrate particular issues for employers' guidance. In addition, by comparing experiences of charging parties working for federal contractor and non-contractor firms, we are able to assess whether and how working for federal contractors has led to different types of experiences with SOGI discrimination. In this section, we summarize our key findings and offer recommendations for employers to improve the workplace environment for LGBT employees. These recommendations for employers should be particularly useful for the design of guidance and compliance reviews by the Office of Federal Contract Compliance Programs as they enforce the Executive Order.

First, our more detailed coding of gender and sexual orientation reveal interesting patterns about claiming. Overall, we find that those identifying as males, gay men, and male-to-female (MTF) are most likely to file SOGI charges of discrimination.. For contractors relative to noncontractors, there is a somewhat higher proportion of charges filed by those identified as female or who were identified as female at birth (35% vs. 34%), lesbian (26% vs. 23%), and

FTM (2% vs. 1%). For noncontractors relative to contractors, there is a higher proportion filed by those identified as males (49% vs. 47%), gay men (41% vs. 40%), and MTF (8% vs. 6%). These patterns are particularly notable among the gender identity charges. Although this research is limited to descriptives rather than establishing causal connections, these findings raise questions for federal contractor firms and suggest that future research is necessary to examine potential causes for gendered variations in charges (e.g. the gender composition of industries that are typically the subject of federal contracts). *Given these data, the OFCCP in compliance reviews could consider evaluating whether federal contractor firms have workforce policies and environments that are welcoming toward female sexual minorities and FTM individuals.*

Our analyses of intersectionality of charging employee characteristics reveal that African American females and lesbians are disproportionately filing SOGI discrimination charges. Based on these descriptive findings, we cannot establish whether these data indicate that African American females and lesbians are subjected to greater SOGI discrimination or are just more likely to pursue a charge of discrimination than their White counterparts. In contrast, the majority of all other gender and sexual orientation categories for charging parties are White (although, nonetheless, disproportionately African American). *Based on the intersectionality of SOGI charge claims with racial and ethnic categories, the OFCCP evaluate could evaluate in compliance reviews all bases of discrimination to see how they might intersect in order to better understand and develop training and policies to prevent SOGI discrimination.*

In addition, these data on intersectionality reveal the overrepresentation of African Americans in charges that lacked detail about sexual orientation or gender identity. *We recommend that the EEOC and state FEPAs examine their intake processes with regard to African American charging parties for SOGI claims. Training on approaches to sensitively elicit*

*this information from the charging parties, as well as instructions about the inclusion of information in SOGI charge narratives, would be important steps toward remedying this data disparity. Enforcement agencies should also consider adding questions on sexual orientation and gender identity to intake forms to allow for easier analysis of SOGI status for all charges.*

Both the quantitative charge database and our analysis of the charge narratives reveal that SOGI charges most commonly involve issues of discharge, harassment, and/or terms and conditions of employment, and that these issues were similarly distributed for federal contractors and noncontractors. Overall, the prevalence of discharge, harassment, and terms and conditions SOGI charges indicate that the focus of enforcement efforts might be targeted at conduct occurring on the job rather than during the hiring stage for both contractor and non-contractor firms. Our analysis of the charge narratives, however, revealed unique experiences with terms and conditions, benefits, and harassment experienced by LGBT employees. In particular, we found that access to restrooms and locker rooms prompted both sexual orientation and, most notably, gender identity charges. And for benefits claims, charging parties described difficulty obtaining access to health insurance coverage for gender-transitioning related claims and, to a lesser degree, for their partners. Although the number of these types of claims was still relatively small, as compared to issues like discharge and harassment, they were more common for employees of federal contractor firms. Similarly, we found a notably greater proportion of gender identity charges against federal contractors that contained descriptions of transitioning experiences related to benefits or facilities access. These types of benefits and facilities related issues were also among the charges more likely to result in merit outcomes for the employees. *Accordingly, we recommend that the OFCCP include questions on compliance evaluations about bathroom and locker room access, as well as benefits related to transitioning.*

Our analysis of harassment behaviors provides insight into the variety of experiences that LGBT individuals encounter in the workplace. Charging parties' descriptions of verbal harassment reveal that most experiences (42%) involve slurs or negative comments directed at the employee on the basis of their sexual orientation or gender identity. More general harassment targeted at sexual or gender minorities as a group based on stereotypes was rarer (11%), and harassment was also less likely to be connected with employees' relationships (2%). Gender identity charges were particularly likely to include descriptions of misgendering (12%), such as employers or coworkers refusing to use preferred pronouns or names. Misgendering for gender identity charges was more common for those working for non-contractor firms (15% vs. 9%) and, to a lesser extent, gender disparagement for all SOGI charges was as well (7% vs. 6%). Relatedly, we also found a somewhat higher proportion of charges describing transitioning experiences around gender expression for those working for non-contractor firms (8% vs. 5%). Taken together, these findings reveal a pattern that suggests that federal contractor firms have fewer problems with harassment centered around gender non-conformity than do non-contractor firms. *In order to further evaluate these findings and ensure maintenance of a work environment more welcoming of gender diversity, we recommend that the OFCCP evaluate the ways that federal contractors are promoting or could promote gender diverse work environments. In addition, along with our prior recommendation concerning restroom and locker room access and benefits related to transitioning, we recommend the OFCCP include questions on evaluations related to misgendering of employees through pronouns and name usage.*

Overall, our results indicate that sexual harassment is more commonly reported in sexual orientation charges than in gender identity charges (17% vs. 7%). This prevalence of sexual harassment charges, coupled with the higher rates of merit outcomes for all sexual harassment

charges, indicates the importance of ensuring that sexual harassment policies and training include sexual orientation-based content. In general, our results indicate that verbal (11% vs. 9%) and physical sexual harassment (7% vs. 4%) is more common within non-contractor firms. For gender identity, however, verbal sexual harassment was described more by those working for contractor firms (7% vs. 3%). Further, experiences with physical violence (10% vs. 4%) or property damage (4% vs. 0%) were described more by those working in contractor firms. Our descriptive results suggest that further investigation is warranted to examine the prevalence of sexual harassment gender identity charges and charges related to physical violence and property damage within contractor firms. These findings suggest that, although gender expression might be less likely to produce verbal harassment in contractor firms, those who do experience discrimination might be more likely to encounter physical harassment. *Based on these data, we particularly recommend that the OFCCP ensure that sexual harassment policies and training is inclusive of LGBT individuals. Further, we recommend evaluation of environments in federal contractor firms that produce physically violent or threatening conditions for LGBT individuals.*

With respect to disclosure, we found that employees filing charges of SOGI discrimination described disclosure about 50% of the time. Disclosure, however, was unlikely to involve a specific voluntary action on the part of the employee, particularly for sexual orientation (only 19%). Rather, their identity was often generally assumed by others (approximately 49%). In gender identity charges, employees were much more likely to describe voluntary disclosures (37%). In some cases, these were necessary due to transitioning in the workplace. Notably, however, employees filing gender identity charges were more likely to describe involuntary disclosures at 26% vs 22% for sexual orientation – and this occurred notably more for contractor firms (35%) than noncontractors (18%). In some of our charges, this disclosure was tied to the

higher proportion of benefits and facilities issues raised by employees working for contractors. When these issues were raised, they resulted in communicating information that was shared with other employees without the charging party's consent.

Overall, our data on disclosure emphasize that charging parties might be hesitant to overtly communicate information about their sexual orientation or gender identity in the workplace but, in general, their identities were often known or assumed by others. These narratives suggest that LGBT employees are typically vulnerable to discrimination even when they do not take overt action to disclose. *Because of this, we recommend the OFCCP emphasize the need for federal contractors to communicate clear nondiscrimination policies even if they are unaware of LGBT employees.*

Our data on transitioning indicate that employees of federal contractors might encounter more transitioning experiences related to benefits/facilities experiences, whereas those of non-contractor firms might have transitioning experiences related to gender expression. As previously noted, the higher proportion of benefits and facilities related charges directed at federal contractors likely explains these transitioning differences. *Given these differences, we recommend that federal contractors should consider implementing policies that describe access to facilities based on gender identity, as well as ensuring that employees have detailed information regarding medical coverage related to transitioning. In addition, employers should obtain training regarding working with employees to develop a plan when transitioning on the job.* Those employees whose employers worked with them to outline steps for transitioning in the workplace were most likely to describe their employers in supportive terms.

Finally, our data suggest that employees filing SOGI grievances might be hesitant to engage in internal grievance processes. Use of the grievance process was particularly unlikely to

be mentioned in gender identity charges against non-contractor firms (40% vs. 54% for contractors). We cannot be certain whether employees used the grievance process, given that we are only reviewing the information contained within the charge. Employees, however, might experience fear and uncertainty about engaging in internal grievance procedures if their employers have not made clear that they are LGBTQ-friendly. Failure to use the internal grievance process could result in employees filing a charge with the EEOC rather than attempting to resolve their complaint internally. *We recommend, therefore, that federal contractors encourage the use of internal grievance processes and signal to LGBTQ employees that their concerns will be investigated with the goal of reaching a beneficial resolution.*

Table 1: Patterns of Demographic and Charge Characteristics for EEOC SOGI Charges, 2012-2016

	Contractors	Noncontractors
<i>Charge Type</i>		
Sexual Orientation Charges	84.2	83.8
Gender Identity Charges	19.7	19.6
<i>State Nondiscrimination Laws</i>		
SOGI State	53.6	51.6
Non-SOGI State	46.4	48.4
<i>Race</i>		
Black/African American	28.1	26.4
White	32.0	30.7
Missing/No Response	36.2	39.7
<i>Hispanic Ethnicity</i>	9.4	8.7
<i>Sex</i>		
Female	39.1	37.1
Male	48.1	47.8
Missing/No Response	12.8	15.1
<i>Industry</i>		
Agriculture Forestry Fishing and Hunting	0.1	0.3
Mining Quarrying Oil Gas Extraction	0.3	0.6
Construction	1.8	0.5
Manufacturing	16.1	9.5
Wholesale	2.3	2.1
Retail	11.1	23.8
Transportation and Warehousing	8.3	2.9
Information	5.3	2.3
Finance and Insurance	8.9	4.8
Real Estate and Rental and Leasing	1.9	1.7
Professional Scientific and Technical S	5.1	3.8
Management of Companies and Enterprises	2.4	2.4
Administration Waste Management and Rem	10.5	5.7
Educational Services	0.7	1.0
Health Care and Social Assistance	17.0	18.1
Arts Entertainment and Recreation	0.6	3.5
Accommodation and Food Services	4.8	14.6
Other Services	1.8	2.5
<i>Other Bases</i>		
Other Gender	53.1	56.0
Race/color	19.3	17.9
Religion	4.4	4.4
National Origin	6.2	6.1

Age	9.0	7.3
Retaliation	46.1	43.4
Disability	17.5	14.2
Other basis	8.9	9.3
<i>Issues</i>		
Benefits	3.0	2.6
Constructive discharge	8.2	11.1
Demotion	2.6	2.6
Discharge	55.4	54.9
Discipline	19.2	16.1
Harassment	48.3	49.7
Hiring	6.0	5.7
Intimidation	5.4	6.0
Layoffs	1.1	0.8
Promotion	7.0	6.1
Sexual harassment	12.5	13.8
Suspension	7.0	5.1
Terms/conditions	28.7	29.8
Wages	4.4	4.8
Other basis	22.6	23.9
Merit	16.0	19.0
Total (N)	1660	1936
Source: EEOC Quantitative Charge Database, 2012-2016. Some values sum to more than 100% due to being contained in multiple categories.		

Table 2: Gender Identity by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
FTM	2.3	1.4	1.9
Female	35.3	34.8	35.1
MTF	6.5	8.7	7.5
Male	47.8	49.2	48.4
Transgender	2.5	1.4	2
Unknown	5.7	4.0	4.9
<i>Sexual Orientation charges</i>			
FTM	0.2	0.0	0.1
Female	38.1	37.7	37.9
MTF	1.5	1.9	1.7
Male	53.7	55.7	54.6
Transgender	0.2	0.0	.1
Unknown	6.2	4.1	5.3
<i>Gender Identity charges</i>			
FTM	13.0	7.7	10.6
Female	21.7	20.5	21.2
MTF	35.9	43.6	39.4
Male	12.0	16.7	14.1
Transgender	14.1	7.7	11.2
Unknown	3.3	2.6	2.9
Source: EEOC Charge Narrative Data, 2012-2016.			
*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.			

Table 3: Sexual Orientation by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Bisexual	0.2	2.8	1.4
Gay	40.8	41.4	41.1
Heterosexual	2.8	4.4	3.5
Lesbian	25.7	23.0	24.5
Unknown	30.5	28.4	29.6
<i>Sexual Orientation Charges</i>			
Bisexual	0.2	3.0	1.5
Gay	46.4	46.5	46.4
Heterosexual	3.0	4.9	3.9
Lesbian	28.4	25.5	27.1
Unknown	21.9	20.1	21.1
<i>Gender Identity Charges</i>			
Bisexual	0.0	3.9	1.8
Gay	6.5	16.7	11.2
Heterosexual	1.1	2.6	1.8
Lesbian	12.0	7.7	10.0
Unknown	80.4	69.2	75.3
Source: EEOC Charge Narrative Data, 2012-2016. *The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.			

Table 4: Disability by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
<i>Disability</i>	19.6	16.8	18.4
<i>Sexual Orientation Charges</i>			
<i>Disability</i>	19.6	17.8	18.8
<i>Gender Identity Charges</i>			
<i>Disability</i>	17.1	10.5	14.0
Source: EEOC Charge Narrative Data, 2012-2016. *The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the			

EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.

Table 5: Gender by Race for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	FTM	Female	MTF	Male	Transgender	Unknown
<i>Total SOGI Charges</i>						
White	65	45	49	52	66	37
African American	35	53	41	43	20	60
Asian/Pacific Islander	0	1	5	2	7	0
Native American	0	1	5	3	7	3
Total	100	100	100	100	100	100
<i>Sexual Orientation Charges</i>						
White	100	44	40	52	100	40
African American	0	54	50	43	0	60
Asian/Pacific Islander	0	1	10	2	0	0
Native American	0	1	0	3	0	0
Total	100	100	100	100	100	100
<i>Gender Identity Charges</i>						
White	65	42	48	55	66	25
African American	35	52	42	45	20	50
Asian/Pacific Islander	0	3	5	0	7	0
Native American	0	3	5	0	7	25
Total	100	100	100	100	100	100

Source: EEOC Charge Narrative Data, 2012-2016.

\*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.

Table 6: Sexual Orientation by Race for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Bisexual	Gay Man	Lesbian	Heterosexual	Unknown
<i>Total SOGI Charges</i>					
White	50	52	46	46	47
African American	50	44	52	42	47
Asian Pacific Islander	0	2	1	4	3
Native American	0	2	1	8	3
Total	100	100	100	100	100
<i>Sexual Orientation Charges</i>					
White	44	52	45	46	43
African American	56	44	53	42	53
Asian Pacific Islander	0	2	1	4	3
Native American	0	2	1	8	1
Total	100	100	100	100	100
<i>Gender Identity Charges</i>					
White	67	47	47	33	52
African American	33	47	53	67	39
Asian Pacific Islander	0	6	0	0	4
Native American	0	0	0	0	5
Total	100	100	100	100	100
Source: EEOC Charge Narrative Data, 2012-2016.					
*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.					

Table 7: Issues Alleged by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Issue, Assignment, Num Hours	3.4	7.7	5.3
Issue, Assignment, Schedule	4.3	4.2	4.2
Issue, Benefits	3.8	2.3	3.1
Issue, Partner Benefits	0.9	0.9	0.9
Issue, Medical Benefits	1.5	0.5	1.0
Issue, Hiring, Failure to hire	4.9	5.1	5.0
Issue, Hiring, Interview	0.4	0.7	0.5
Issue, Hiring, Rehire	1.4	1.1	1.2
Issue, Hiring, Offer	0.9	0.7	0.8
Issue, terms & cond, dress	2.3	3.5	2.8
Issue, terms & cond, prof dev	2.8	2.8	2.8
Issue, terms & cond, restroom	3.4	1.9	2.7
<i>Sexual Orientation Charges</i>			
Issue, Assignment, Num Hours	3.5	8.7	5.8
Issue, Assignment, Schedule	4.8	4.6	4.7
Issue, Benefits	2.6	2.2	2.4
Issue, Partner Benefits	1.1	0.8	1.0
Issue, Medical Benefits	0.2	0.3	0.2
Issue, Hiring, Failure to hire	4.6	3.5	4.1
Issue, Hiring, Interview	0.2	0.3	0.2
Issue, Hiring, Rehire	1.1	1.6	1.3
Issue, Hiring, Offer	0.9	0.3	0.6
Issue, terms & cond, dress	1.5	2.7	2.1
Issue, terms & cond, prof dev	3.0	2.7	2.9
Issue, terms & cond, restroom	1.7	0.3	1.1
<i>Gender Identity Charges</i>			
Issue, Assignment, Num Hours	2.2	2.6	2.4
Issue, Assignment, Schedule	2.2	1.3	1.8
Issue, Benefits	9.8	3.9	7.1
Issue, Partner Benefits	0.0	1.3	0.6
Issue, Medical Benefits	8.7	2.6	5.9
Issue, Hiring, Failure to hire	7.6	12.8	10
Issue, Hiring, Interview	1.1	3.9	2.4
Issue, Hiring, Rehire	2.2	0.0	1.2
Issue, Hiring, Offer	1.1	2.6	1.8
Issue, terms & cond, dress	8.7	9.0	8.8

Issue, terms & cond, prof dev	1.1	2.6	1.8
Issue, terms & cond, restroom	14.1	9.0	11.8
Source: EEOC Charge Narrative Data, 2012-2016. *The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.			

Table 8: Alleged Actors by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (% calculated out of those identifying alleged actors)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Executive, supervisor	85	87.9	86.2
Client	1.1	2.5	1.7
Coworker	29.1	34.1	31.3
Human Resources	11.9	13.9	12.8
<i>Sexual Orientation Charges</i>			
Executive, supervisor	85.2	88.6	86.7
Client	1.1	2.4	1.7
Coworker	29.3	34.5	31.6
Human Resources	11.9	13.9	12.8
<i>Gender Identity Charges</i>			
Executive, supervisor	83.7	84.6	84.1
Client	1.1	2.6	1.8
Coworker	28.2	32.1	30.0
Human Resources	11.9	14.1	12.9
Source: EEOC Charge Narrative Data, 2012-2016. *The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.			

Table 9: Harassment Behaviors by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Overall, harassment behavior	67.7	68.37	67.9
Nonverbal	18.16	14.19	16.4
Nonverbal, physical	1.5	1.63	1.6
Nonverbal, property damage	2.81	1.16	2.1
Nonverbal, violence	7.87	4.88	6.5
Sexual	13.11	18.14	15.4
Sexual, physical	3.75	7.21	5.3
Sexual, verbal	8.61	10.7	9.5
Verbal	56.93	56.74	56.9
Verbal, stereotype	10.3	12.33	11.2
Verbal, indiv disparagement	40.64	43.72	42.0
Verbal, relationship disparag	2.25	2.33	2.3
Verbal, gender disparagement	6.18	7.21	6.6
Verbal, misgendering	2.43	3.49	2.9
Verbal, threat	6.93	5.12	6.1
<i>Sexual Orientation Charges</i>			
Overall, harassment behavior	68.76	71.2	69.8
Nonverbal	17.57	15.22	16.5
Nonverbal, physical	1.74	1.09	1.5
Nonverbal, property damage	2.6	1.36	2.1
Nonverbal, violence	7.38	4.89	6.3
Sexual	13.45	20.65	16.7
Sexual, physical	4.12	8.15	5.9
Sexual, verbal	8.68	11.96	10.1
Verbal	57.05	58.42	57.7
Verbal, stereotype	8.89	11.68	10.1
Verbal, indiv disparagement	40.13	45.11	42.3
Verbal, relationship disparag	2.17	2.72	2.4
Verbal, gender disparagement	5.86	7.34	6.5
Verbal, misgendering	1.3	1.63	1.5
Verbal, threat	7.59	5.43	6.7
<i>Gender Identity Charges</i>			
Overall, harassment behavior	59.78	55.13	57.7
Nonverbal	20.65	7.69	14.7
Nonverbal, physical	1.09	3.85	2.4
Nonverbal, property damage	4.35	0	2.4

Nonverbal, violence	9.78	3.85	7.1
Sexual	8.7	5.13	7.1
Sexual, physical	1.09	2.56	1.8
Sexual, verbal	6.52	2.56	4.7
Verbal	55.43	50	52.9
Verbal, stereotype	17.39	19.23	18.2
Verbal, indiv disparagement	44.57	39.74	42.4
Verbal, relationship disparag	2.17	0	1.2
Verbal, gender disparagement	7.61	6.41	7.1
Verbal, misgendering	8.7	15.38	11.8
Verbal, threat	3.26	3.85	3.5
Source: EEOC Charge Narrative Data, 2012-2016.			
*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.			

Table 10: Merit Charges for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	<i>Total SOGI</i>	<i>Sexual Orientation</i>	<i>Gender Identity</i>
Harassment	17	17	22
<i>Verbal Harassment</i>	18	18	21
<i>Nonverbal Harassment</i>	16	12	20
<i>Verbal Sexual Harassment</i>	24	29	50
<i>Physical Sexual Harassment</i>	31	21	100
Benefits	20	10	42
<i>Medical Benefits</i>	40	50	40
<i>Partner Benefits</i>	22	13	100
Hiring	8	4	18
<i>Failure to hire</i>	11	6	24
<i>Failure to rehire</i>	8	9	0
<i>Offer rescinded</i>	0	0	0
Terms & Conditions	16	14	25
<i>Dress code</i>	30	24	40
<i>Professional development</i>	19	17	33
<i>Restroom &amp; locker room</i>	27	22	35
Source: EEOC Charge Narrative Data, 2012-2016.			
*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170			

gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.

Table 11: Disclosure by Employer Type for Sexual Orientation Charges and Gender Identity Charges (left-justified is % of total; right-justified is subcategory as % of the category total.)

	Contractors	Noncontractors	Total
<i>Sexual Orientation Charges</i>			
Disclosure nexus	11.3	4.9	8.4
Others Aware, overall	51.1	47.1	48.9
Generally known	91	90	90.4
Same-sex Relationship	9.7	9	9.4
CP indicates not LGBT	3.7	6.9	6.9
Action, overall	20.6	16.3	18.7
Involuntary	22.1	21.7	21.9
Voluntary	33.7	41.7	36.8
Same-sex Relationship	45.2	43.3	44.5
Who knows, overall	57.3	55.2	56.3
Client	11.3	3.9	2.4
Coworker	46.9	49.8	48.2
Human Resources	13.6	8.3	11.3
Executive, supervisor	84.5	82.2	83.5
<i>Gender Identity Charges</i>			
Disclosure nexus	14.1	16.7	15.3
Others Aware, overall	43.5	37.2	40.6
Generally known	97.5	96.6	97.1
Same-sex Relationship	2.5	3.4	2.9
CP indicates not LGBT	2.5	3.4	2.9
Action, overall	35.9	37.2	36.5
Involuntary	34.5	18.2	25.8
Voluntary	41.4	36.4	38.7
Same-sex Relationship	10.3	6.1	8.1
Who knows, overall	64.1	50	57.7
Client	0	7.7	.03
Coworker	54.2	56.4	55.1
Human Resources	18.6	15.4	17.3
Executive, supervisor	86.4	87.2	86.7

Source: EEOC Charge Narrative Data, 2012-2016.

\*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in

this table.

Table 12: Transitioning Experiences by Employer Type for Total SOGI Charges & Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Transitioning Overall	3.6	3.0	3.3
Transitioning, Benefits	2.1	0.5	1.4
Transitioning, Gender Express	0.9	1.4	1.1
Transitioning, Language	0.6	0.9	.7
Transitioning, Negative resp	1.9	1.6	1.8
Transitioning, Supportive resp	0.6	0.9	.7
Transitioning, Plan	0.8	0.2	.5
<i>Gender Identity Charges</i>			
Transitioning Overall	20.7	16.7	18.8
Transitioning, Benefits	12.0	2.6	7.7
Transitioning, Gender Express	5.4	7.7	6.5
Transitioning, Language	3.3	5.1	4.1
Transitioning, Negative resp	10.9	9.0	10
Transitioning, Supportive resp	3.3	5.1	4.1
Transitioning, Plan	4.4	1.3	2.9

Source: EEOC Charge Narrative Data, 2012-2016.

\*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.

Table 13: Use of Grievance Process by Employer Type for Total SOGI Charges, Sexual Orientation Charges, and Gender Identity Charges (%)

	Contractors	Noncontractors	Total
<i>Total SOGI Charges</i>			
Use of Internal Grievance Process	52	55	53
Employer Responded	49	54	51
Positive Response	6	8	7
Negative Response	18	20	19
No Action	30	36	32
<i>Sexual Orientation Charges</i>			
Use of Internal Grievance Process	52	58	55
Employer Responded	49	57	53
Positive Response	6	8	7
Negative Response	17	21	19

No Action	31	36	33
<i>Gender Identity Charges</i>			
Use of Internal Grievance Process	54	40	48
Employer Responded	50	38	45
Positive Response	8	10	9
Negative Response	24	12	18
No Action	29	28	29

Source: EEOC Charge Narrative Data, 2012-2016.

\*The total sample size for SOGI charges is 964, with 829 sexual orientation and 170 gender identity charges. Due to confidentiality restrictions from the EEOC, we do not report the specific sample sizes of SOGI, SO, or GI charges with valid data for the variables reported in this table.

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