

“As a transgender person, I’d like to know the connection between transgender people and the issue of marriage for same-sex couples.”

The fight to win the freedom to marry from the government is also a fight for the many transgender people who are in same-sex relationships. But there is an extra layer of complication for transgender people, because, if you are transgender, whether or not you are considered by the government to be in a same-sex relationship can depend on whether or not your gender identity is respected. In short, perception of your gender identity affects whether or not your relationship with someone else is seen as a different-sex or same-sex relationship, and, in most states, that determines whether or not the government will allow you to marry your partner. Four different scenarios are common:

- 1) Your gender identity is RESPECTED and the government sees you as someone in a SAME-SEX relationship (for example, you are a transgender man partnered with another man and you are recognized as being a same-sex couple).**

In this scenario, you may encounter discrimination against same-sex couples, in which case work on behalf of same-sex couples will benefit you. If you married your partner before transition, some may claim that your marriage is invalid as a result of your transition. In that case, it may be necessary to explain that gender transitions do not void otherwise-valid marriages. Of course once same-sex couples have the right to marry, transition would not even raise an issue because then the sex of the spouses would be legally irrelevant.

- 2) Your gender identity is RESPECTED and the government sees you as someone in a DIFFERENT-SEX relationship (for example, you are a transgender woman partnered with a man and you are recognized as being a different-sex couple).**

In this scenario, because you are recognized as being a different-sex couple, you already have the choice to marry or not. But even if you choose to marry, you would be wise to take steps to protect your relationship (such as executing wills and health care powers of attorney), in the rare event that someone attempts to challenge the validity of your marriage.

- 3) **Your gender identity is DISRESPECTED and you are perceived as being in a SAME-SEX relationship (for example, you are a transgender man in a relationship with a woman but the government contends that you both are women).**

Here you likely face two problems: gender identity discrimination and discrimination against same-sex couples. The solution is continuing to work to end both forms of discrimination.

- 4) **Your gender identity is DISRESPECTED and you are perceived as being in a DIFFERENT-SEX relationship (for example, you are a transgender woman in a relationship with a woman but the government contends that you are male and part of a different-sex couple).**

Here the primary problem is typically gender identity discrimination. But that discrimination leads the government to see a relationship as different-sex, and some couples in this circumstance choose to marry because of the important need for protections, aware that some may argue in the future that the choice to marry was an acceptance of the government's view that the transgender individual had not changed his or her sex.

In the real world, you might also find that you are part of more than just one of these scenarios, because you will confront officials in different positions of authority, meaning that the government might respect your gender identity and your relationship in some circumstances, and not in others. You might even encounter that in just one official, who for example respects your gender for one purpose but disrespects it for another.

Regardless of whether the problem you face involves lack of respect for your gender identity, or denial of the right to marry, or both, the transgender community benefits from gains in the law regarding access to marriage. When we win the fight for marriage equality, the sex of two spouses will no longer matter legally and transgender people in same-sex relationships – like all other loving couples – will be able to marry. But of course we will have to continue our challenges to overcome both gender identity discrimination and sexual orientation discrimination in all other areas.