



AMERICAN
BANKRUPTCY
INSTITUTE

2023 Annual Spring Meeting

Luncheon Keynote

*Sponsored by Alvarez & Marsal and
Skadden, Arps, Slate, Meagher & Flom LLP*

Prof. Kenji Yoshino
NYU School of Law; New York



ALLYSHIP FOR ALL

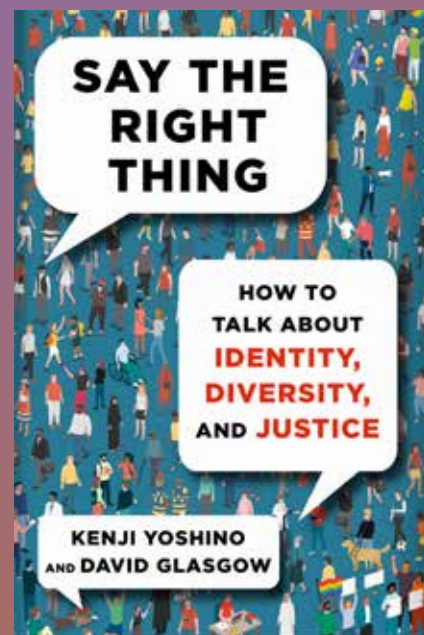
Kenji Yoshino

Chief Justice Earl Warren Professor of Constitutional Law
Director, Center for Diversity, Inclusion, and Belonging
NYU School of Law

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OUR APPROACH TO ALLYSHIP

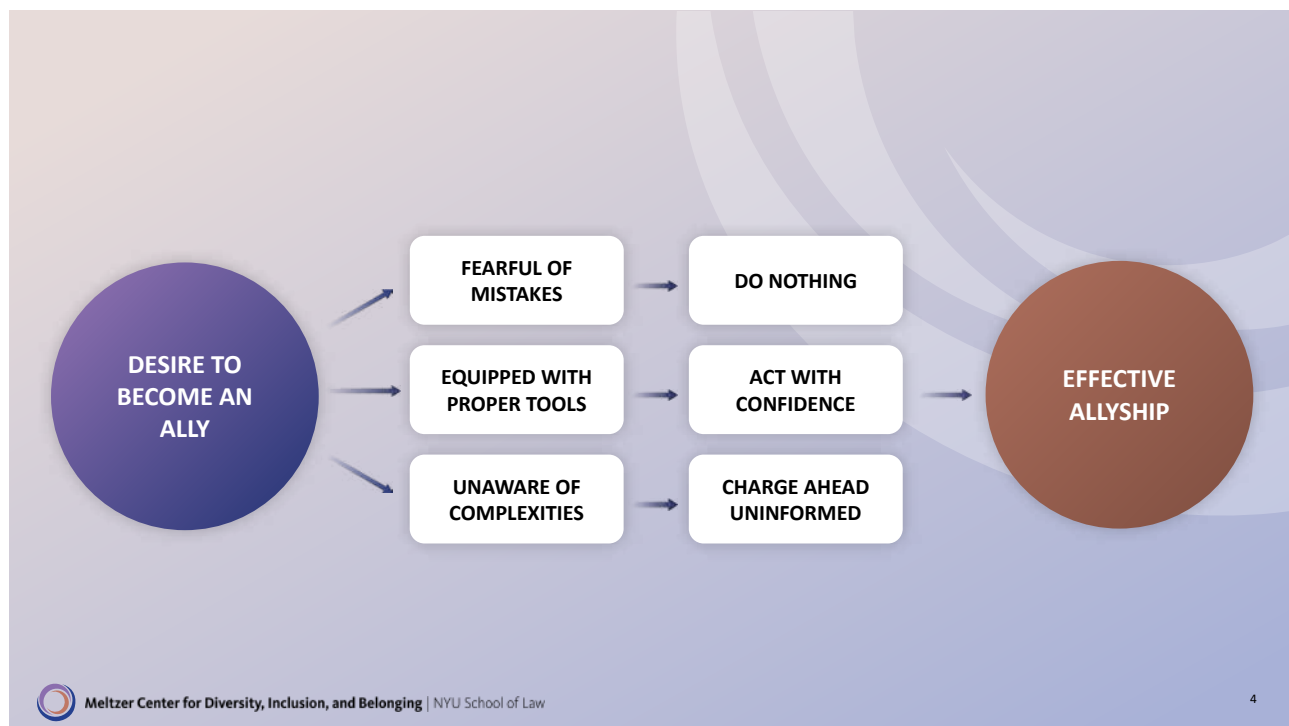
A practical, shame-free guide for navigating conversations about our differences in a time of rapid social change.



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DEFINITION OF ALLY

“An ally is someone who leverages their advantages in support of others who don’t have those same advantages.”



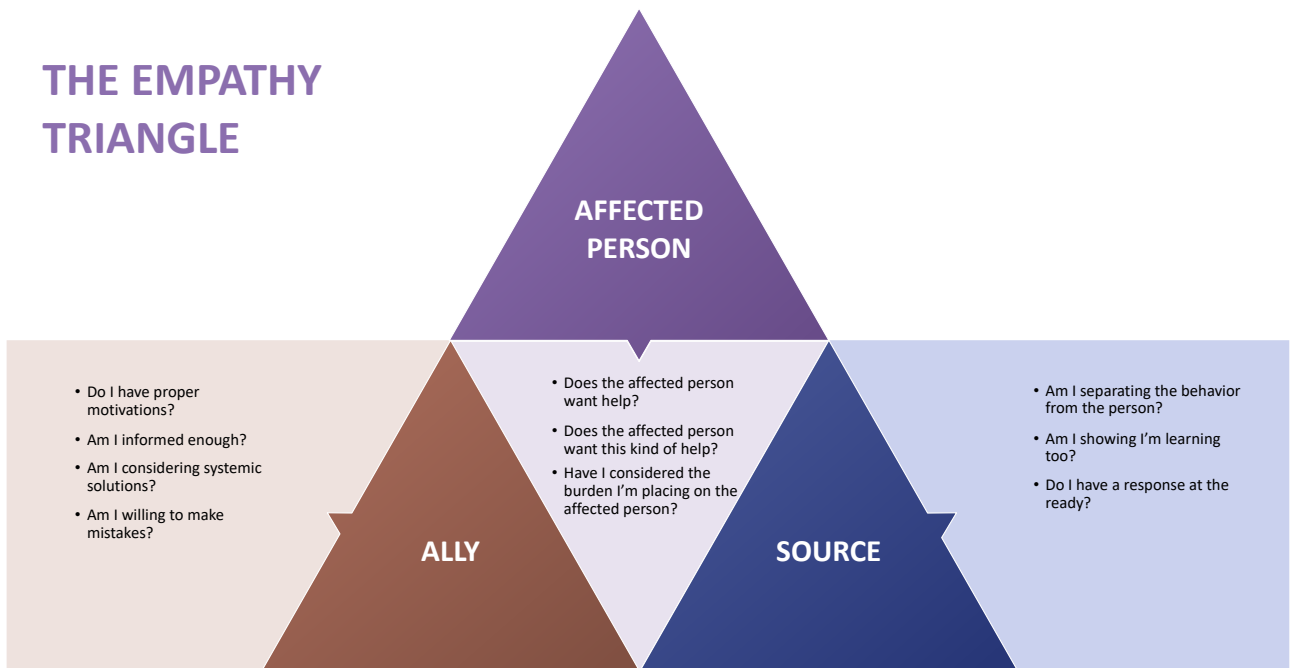


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THE EMPATHY TRIANGLE

 **NYU LAW**

THE EMPATHY TRIANGLE



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OPTIONS FOR ENGAGING THE SOURCE

Strategy	Example
Say something short and sharp	"Excuse me?"
Emphasize the impact on you	"That comment didn't land well on me, because . . ."
Educate	"I feel differently about that issue. Can I share my perspective?"
Ask them to explain their views	"Can you help me understand how you came to that view?"
Paraphrase or repeat what they said	"To make sure I heard you correctly, did you just say . . .?"
Model what they could have said	"I think the client would really like <i>her</i> " (in response to misgendering)
Connect the issue to specific people	"If someone said that to your spouse, how would you feel?"
Show how your views have evolved	"I've been [reading/listening to] ___ recently and here's how it changed my mind. . . ."
Affirm their values	"I know you care about ___. What you just said doesn't sound consistent with that."
Affirm their intentions	"While I'm sure you have positive intentions, I worry that the impact may be different."
Appeal to organizational values	"That is not in line with the firm's position."

HOW TO DISAGREE

Locate the conversation on the controversy scale.



HOW TO DISAGREE

01

Locate the conversation on the controversy scale

02

Find uncommon commonalities

03

Show your work on remaining disagreements

04

Manage your expectations



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Q&A

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Faculty

Prof. Kenji Yoshino is the Chief Justice Earl Warren Professor of Constitutional Law at NYU School of Law and the director of the Meltzer Center for Diversity, Inclusion and Belonging in New York. He specializes in constitutional law, antidiscrimination law, and law and literature. Prof. Yoshino received tenure at Yale Law School, where he served as Deputy Dean before moving to NYU. He has published in major academic journals, including the *Harvard Law Review*, the *Stanford Law Review* and the *Yale Law Journal*. He has also written for more popular forums, including the *Los Angeles Times*, the *New York Times* and the *Washington Post*. Prof. Yoshino is the author of four books, most recently *Say the Right Thing: How to Talk About Identity, Diversity, and Justice*, which he co-authored and which was published by Simon and Schuster in February 2023. He has served as the president of the Harvard Board of Overseers, and he currently serves on the board of the Brennan Center for Justice, on advisory boards for diversity and inclusion for Morgan Stanley and Charter Communications, and on the board of his children's school. Prof. Yoshino has won numerous awards for his teaching and scholarship, including the American Bar Association's Silver Gavel Award, the Peck medal in jurisprudence, and the New York University's Distinguished Teaching Award. He received his A.B. *summa cum laude* from Harvard University, his M.Sc. as a Rhodes Scholar from Oxford, and his J.D. from Yale.