



Transitioning & Gender on the Job Guidelines

I. Terms & Definitions

Crossdresser A Person who wears clothing associated with the other sex

Gender A system of perceiving bodies, dress and behavior as masculine or feminine.

Gender Identity Inner sense of being male or female

Gender Expression External presentation of our gender as masculine or feminine through look, act, dress

Gender Stereotypes Ideals and expectations for how each sex should look, act, or dress

Intersex Genitalia or Genetic makeup which do not conform to medical standards for male or female

Sex Physical sex; biological male or female

Sexual Orientation Romantic or physical attraction to men or women

Transgender Umbrella term for people who cross gender lines

Transsexual Specific term for someone who changes sex

Transition Social and medical process of changing from one sex to another

II. Non-Discrimination Policy

- **Amendment:** Amend company non-discrimination policies (and harassment policies if different) to add “gender identity and expression” to the list of protected categories.
- **Communication:** Make sure the new non-discrimination policy is reflected in the employee handbook and any other place where the company communicates corporate policies to employees.
- **Announcement:** Make an internal public announcement of the policy change and what it means.

III. Records, Documentation & Privacy

A. Privacy

- Confidential: Transgender status should be considered sensitive data which is confidential and private, and left up to the employee what -- if anything -- they want to share with, when and to whom.
- Expectations: Transitions are often highly individual, and the employer should not expect particular changes or sequences of changes in a particular order or time frame.
- Dependency: No aspect of transitioning in the workplace should be contingent upon the employee undergoing particular medical procedures or changing specific anatomical features.
- Medical status: Transitioning employees should not be required to reveal – and managers should not be permitted to inquire about – particular medical or surgical procedures; medical aspects of transitioning should be considered as any private medical matter between doctor and patient.
- Permission: Managers should not request a doctor's note or medical permission for any aspect of an employee's workplace transition. Health benefit administrators may need access to commonly available medical receipts or documentation to provide for any reimbursement as they would with any medical procedure.

B. Records

- Confidential: Federal law requires keeping employee medical records confidential

C. Documentation

- Name Change: Any appropriate public documentation – court certificate, Social Security card, driver's license, passport, etc. – is sufficient to update a transitioning employees name in company records.
- Timing: With the exception of name, changes in company documentation – including sex of record -- may be requested by transitioning employee at any time in their transition.
- Reporting to SSA: If a transitioning employee has not updated their Social Security card with their new name, under new guidelines, the Social Security Administration may require the employer to report wages and salary under the employee's original name.

D. Public Documentation

- Email, business cards, departmental lists and floor lists may be updated at any time by request of a transitioning employee regardless of the payroll name of record.

IV. Objections

- Private: Employees with personal, moral, or religious objections to an individual's transition are welcome to hold such beliefs but expected to keep them private
- Professionalism: It is inappropriate for coworkers with objections to communicate or discuss them with the transitioning employee, coworkers, or with customers; employees are expected to be respectful and professional at all times.
- Discussion: Employees with objections are encouraged to discuss them with the appropriate HR representative or their immediate manager; such discussions are confidential – they will not be reflected in company records or be the basis for disciplinary action against them.
- Education: Objections often arise out of lack of knowledge or information about something that is unknown or uncommon, so educating managers about transition and support for the employee will be necessary

V. Employee Communications

A. Employee Meetings

- Meetings: A meeting to inform all appropriate coworkers of the transition and the organization's non-discrimination and respect at work policies is helpful and should be considered with the transitioning employee's consent. This meeting should take place just prior to the commencement of the visible transition and new gender presentation.
- Communicator: It is recommended a manager or HR representative conduct this meeting, and that the transitioning employee consider being absent for all or part of it so attendees can question and voice concern freely.
- In-depth: In-depth concerns or questions should be tabled for private discussion with the designated HR representative and/or the manager

B. Other Communication

- Need-to-know: Communicating with coworkers about an impending transition should be limited to those who have a need to know or have regular contact with the employee, rather than a whole floor or department.
- Management: Some employees will be unsure how to respond and will take their cue from their immediate manager; managers should seek to communicate through their language and manner that the transition is not an extraordinary event that requires lots of the team's time and attention.
- Designated Representative: The transitioning employee and their immediate manager should have a designated HR representative who is familiar with the issues and available to discuss any situations or concerns that arise.

VI. Pronouns

- Recognition: Transitioning employees must be recognized and respected in the new gender in which they present themselves in the workplace.
- Mistakes: Transitioning employees understand that people may occasionally use their original name or old pronoun by accident; what is required and expected of coworkers is not perfection but respectful response.
- Insistence: Any coworker who continues using the employee's original name or pronoun on a consistent basis over time will be asked to have a private discussion about coworker respect with their immediate manager or HR; continued use will result in disciplinary action.

VII. Use of Restrooms & Locker-rooms

A. Restroom

- Appropriate: Employees use restrooms which are appropriate for the sex in which they present themselves in the workplace.
- Not Contingent: Use of the gender-appropriate restroom is not contingent on particular medical procedures or anatomy.
- Special Burden: Asking a transitioning or transgender employee to use restrooms only when others are absent places an undue burden on them that is both inappropriate and disrespectful.
- Objections: An employee who objects to a transitioning or transgender employee using the restroom is welcome to use any other available restroom.
- Unclear: It is common to for a woman who presents masculinely to be repeatedly asked, "Did you know this is the Women's Room?"; querying an employee's use of a restroom or assuming it is their responsibility to make their sex clear to you, is not appropriate.
- Behavior: All restroom behavior is predicated on appropriate behavior and respect for others' privacy at all times, not anatomy.

B. Locker-rooms

- Appropriate: Transitioning employees should use the locker-room that is appropriate for the sex in which they present themselves in the workplace.
- Nudity: If frontal nudity is unavoidable, an employee who has not completed an surgical genital transition should be provided with a suitable facility that accords them dignity and respect.

VIII. Dress Codes & Appearance

- Gender Neutral: Dress codes should be appropriate, consistently applied and gender-neutral; for instance, a woman who is more comfortable in a sport coat and slacks will be considered appropriately dressed as long as she meets one of the dress codes. Industry-appropriate rather than gender-specific guidelines should be articulated.
- Make-up: It is inappropriate to require make-up, high heels, or particular hair length or styles of employees who are meeting the feminine dress code; all that is required is industry-appropriate dress and a neat, clean appearance.
- Expectations: A transitioning employee's appearance may not meet some coworkers expectations for how man or a woman should look; appearance should not be considered a relevant factor for transition, for being recognized in their gender, or for access to resources, restrooms, etc.
- Advice: Coworkers may be tempted to offer transitioning or transgender employees advice on appearance or dress; advice unsolicited, even if well-meant, is not appropriate.

IX. Customer Contact

- Public Positions: When a transitioning employee has frequent, repetitive interaction with customers in a highly public position – such as counter help, receptionist, or retail sales, – their manager and HR representative should consider if they will need any special training or support to answer or handle questions, reactions or inquiries.
- Client Contact: When a transitioning employee has frequent in-depth interactions with clients – such as in sales, marketing, or engineering – their manager and HR representative may want to consider the best way to notify the client of the impending transition, after consulting with the employee.

X. Medical Insurance

- Exclusions: Some health and disability policies contain standard exclusions for transgender-related procedures or treatment; company representatives should work with the carrier to have these removed or renegotiated; until that time, they should work with the employee to circumvent them to the degree that doing so is ethical and within the language of the contract. Self-insured employers should review their benefit plans with their plan administrator to ensure that there are no gender-based prohibitions in place. Plan administrators should be familiar with the employer's non-discrimination policy.

- Press for Coverage: Often health and disability carriers include transgender exclusions in their policies on a *pro forma* basis, but will quietly give make exceptions on an individual, case-by-case basis, depending on the specific details and provided the employer goes to bat for the insured; HR representatives should engage the carrier and arrange for coverage from such exclusions wherever possible.

XI. Partners & Spouses

- Domestic Partner Benefit: A transgender employee may have been legally married before transitioning, and -- depending on the jurisdiction -- the validity of such marriage may be in question; others will have domestic partners of the same or the opposite sex; to ensure that all employees are treated equitably, employers should extend Domestic Partner Benefits to both opposite- and same-sex couples.

XII. Same Gender Sexual Harassment

A degree of teasing of male employees who are viewed as less aggressive, under-performing, or effeminate has occurred in some workplaces. However, since courts have viewed such male-on-male teasing or “horseplay” as within the domain of sexual harassment law – even though its point is not sexual attraction *per se* -- and thus grounds for legal action. Same-gender sexual harassment lawsuits have doubled in the last 10 years. The behaviors at issue range from mockery to female pronouns to sexualized taunting with physical contact.

- Policies: Company sexual harassment policies and accompanying diversity training should be updated to reflect the new emphasis on preventing same-gender sexual harassment in the workplace.
- Teasing: Any taunting or mocking of male employees for being less aggressive or less masculine– including addressing them as “ladies,” “girls,” or the use of female pronouns or names – is inappropriate and will result in disciplinary action.