

# Gender Identity Issues in the Workplace: Best Practices

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# What is Gender Identity?

- ▶ A person's perception of having a particular gender, which may or may not correspond with their birth sex.

Oxford Dictionary definition

- ▶ One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves.

Human Rights Campaign – Sexual Orientation and Gender Identity Definitions

# Other Important Terms

## ▶ Gender expression

- ▶ External appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

## ▶ Transgender

- ▶ An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. **Being transgender does not imply any specific sexual orientation.** Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

# Other Important Terms

## ▶ Gender transition

- ▶ The process by which some people strive to more closely align their internal knowledge of gender with its outward appearance. Some people socially transition, whereby they might begin dressing, using names and pronouns and/or be socially recognized as another gender. Others undergo physical transitions in which they modify their bodies through medical interventions.

## ▶ Gender dysphoria

- ▶ Clinically significant distress caused when a person's assigned birth gender is not the same as the one with which they identify.

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# WORKPLACE ISSUES

- ▶ Transitioning employees
- ▶ Restroom protocols
- ▶ Dress codes
- ▶ Name identification
- ▶ Discrimination / harassment
- ▶ Model Policies and Best Practices

## Examples of unlawful harassment:

- ▶ Intentionally and persistently failing to use name and gender pronoun that correspond to EE's self-identification
- ▶ Denying equal access to a common restroom corresponding to EE's gender identity

# OSHA – GUIDE TO RESTROOM ACCESS

- ▶ Impacting a large employee population
  - ▶ Williams Institute (UCLA) – 700,000 transgender adults in the U.S.
- ▶ Access as a safety and health issue
  - ▶ Prompt access without unreasonable restrictions
- ▶ Model Practices / Best Policies
  - ▶ Use facility corresponding to self-identification
  - ▶ Single occupancy, unisex facilities
  - ▶ Multiple occupancy, unisex, locking stalls

# State Restroom Access Laws

## ▶ Colorado

- ▶ Use facility “appropriate to their gender identity”
- ▶ Without being harassed or questioned

## ▶ Delaware

- ▶ Gender identity non-discrimination law
- ▶ Cannot compel EE to use a specific restroom unless all other workers *of the same gender identity* are also compelled to use it



# State Restroom Access Laws

- ▶ **District of Columbia**
  - ▶ Single-stall restroom must have gender-neutral signage
  
- ▶ **Iowa, Vermont, Washington**
  - ▶ Use facility corresponding to self-identification

# Workplace Transition Plans - Getting Started

- **Initial employee meeting**
  - What do EE and management expect through the transition process.
- **Initial management meeting**
  - Management meets with supervisor to educate about process and review company policy and procedures.
- **Joint meeting with employee and supervisor**
  - Discuss transition plan and address any questions or concerns.

# Workplace Transition Plans - Getting Started

- **Informing co-workers**
  - Provide basic info about EE's plans
  - Discuss policies
  - Expected behavior
  - Addressing individual concerns
  - Create atmosphere where EEs feel more comfortable asking questions

Transgender Workplace Diversity  
Jilian T. Weiss, J.D, Ph.D