

# TRANSGENDER IN THE WORKPLACE



## A GUIDE FOR MUNICIPALITIES

League of California Cities  
GLBT Local Officials Diversity Caucus  
September 2017

## **EVERYONE has a ...**

- **Sex assigned at birth**
- **Gender expression**
- **Gender identity**
- **Sexual orientation**

## **WHY it matters**

Many studies report that transgender people are likely to encounter stigma and discrimination in the workplace:

- Transgender people face double the rate of unemployment as the overall population.<sup>(1)</sup>
- Nearly half of transgender people who applied for a job were not hired, were fired, or were not promoted due to their gender identity.<sup>(2)</sup>
- Nine in 10 transgender employees experienced harassment or mistreatment on the job, or took steps to avoid it.<sup>(3)</sup>
- With high rates of employment discrimination and other barriers to employment, some transgender people are forced into underground “survival economies,” where they struggle to earn enough to cover even basic necessities. Sixteen percent of transgender and gender non-conforming respondents said they have engaged in sex work, drug sales, or other activities for income.<sup>(4)</sup>
- Discrimination creates obstacles to running an efficient and effective municipality by introducing harmful inefficiencies and unnecessary costs that ultimately weaken the city’s ability to do its job. When governments discriminate, they have a harder time recruiting and retaining the best workers. Additionally, City Hall suffers from depressed workplace productivity and job performance, and often becomes vulnerable to costly litigation.<sup>(5)</sup>
- One in four respondents to a 2015 transgender survey experienced a problem with their insurance related to being transgender, such as being denied coverage for care related to gender transition or being denied coverage for routine care because they were transgender.<sup>(6)</sup>

# WHY this guide is Important

## A Message from the President:

Dear Colleagues:

This guidebook came about when the League of California Cities' (League) Gay-Lesbian-Bisexual-Transgender Local Official (GLBTLO) Caucus Board saw the need to develop a best practices guide for city officials and city staff related to policies and practices that promote inclusive workplaces. The Caucus turned to the California Gay Lesbian Bisexual Transgender Leadership Institute (GLBTLI) for help in developing a guide. The result is this practical guidebook that provides city leaders with the latest and most up-to-date information related to transgender and gender non-conforming municipal employees.

Many of California's 482 cities have limited resources to support an inclusive workplace environment for Lesbian, Gay and Bisexual employees and have yet to develop best practices to prevent discrimination for transgender and gender non-conforming employees, thereby increasing the risk/exposure of potential litigation.

Despite any changes that may or may not occur in the federal government, California cities have a legal obligation to protect all their employees from harassment and discrimination based on sex, gender, gender identity, and gender expression.

The League's mission is to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians. Ethical and well-informed city officials are essential for responsive, visionary leadership and for effective and efficient city operations. As transgender and gender non-conforming people continue to increase in visibility nationwide, city leaders, whether elected or appointed, must champion an inclusive city government and assure that City Hall is a hospitable workplace for transgender and gender non-conforming employees.

This guidebook is a resource of road maps and best practices. I encourage you to use it as a tool to implement good public policy for your current or future transgender and non-conforming employees. Whether your city adopts ordinances, develops human resources guidelines, and/or takes some other route to transform the culture of the workplace, what is important is that each city invest in its future by implementing best practices and educating all staff on compliance with federal, state, and local anti-discrimination laws.

I hope you find this guide as valuable as I do in our collective efforts to create municipal workplaces that are welcoming and thriving for all.



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## SECTION I: A CALL TO CITY LEADERSHIP

### The Importance of Inclusiveness in the Workplace

Cities are engines of economic development, sustainability, social mobility, and diversity. Cities have a responsibility to uphold state and federal laws – for their residents, for their visitors, and for their businesses and employees.

Age-old forces such as trade, migration, technology and diverse economic bases have allowed some cities to emerge as global leaders. Diversity, be it an economic base or a workforce, contributes to city resiliency and helps cities to be competitive with other global population centers. Workplace diversity is an organizational strength.<sup>(7)</sup>

Although many municipalities have embraced a workplace culture that supports lesbian, gay, and bisexual employees, there are many cities that have yet to implement this policy of inclusiveness. In addition, cities are just beginning to recognize the importance and value of supporting transgender and gender non-conforming employees.

Identifying and using best practices and road maps related to diversity and transgender inclusion can make each city a global leader, providing a great place to live and visit, and a strong business environment that inspires and provides solutions.

This guidebook focuses on the importance and benefits of conforming to state and federal laws and to adopting city ordinances, policies and practices with respect to transgender employees.

Consider the following:

- Lesbian, gay, bisexual, transgender and gender non-conforming (LGBT) workers are not treated equally. As many as 47 percent of transgender workers report being unfairly denied a job, and 78 percent report being harassed, mistreated or discriminated against in the workplace.<sup>(8)</sup>
- Many LGBT workers are being fired from their jobs or being denied employment and forced into the ranks of the unemployed based simply on their sexual orientation or gender identity. LGBT people experience high rates of discrimination and harassment on the job and all too often lack access to essential workplace benefits such as health care for themselves and their families.
- Discrimination creates obstacles to running an efficient and effective municipality by introducing harmful inefficiencies and unnecessary costs that ultimately weaken a city's ability to do its job. When governments discriminate, they have a harder time recruiting and retaining the best workers.

- Additionally, City Hall suffers from depressed workplace productivity and job performance, and often becomes vulnerable to costly litigation.
- Taxpayers ultimately end up paying the costs associated with workplace discrimination in the public sector.
- With cities, counties, and states facing severe budget shortfalls, governments cannot afford bad business practices.

### **The Importance of Transforming City Hall**

Cities must decide what kind of culture or work place environment they want. Direction must come from city leaders to champion a more inclusive workplace including inclusive practices for transgender employees and gender non-conforming employees.

Do leaders want a culture of respect, honesty, friendliness, and openness leading to general overall community wellness? Or are they afraid that by adopting more inclusive workplace policies that City Hall will experience disruption, controversy, additional costs, and loss of community support? Although there are many routes presented in this guide to transform the culture of the workplace, it is important that each city invest in its future by changing the culture of the workplace through adopting best practices and educating all staff on compliance with federal, state, and local anti-discrimination laws.

Cities must also decide on what their responsibilities are to their employees, what best practices to adopt, and how these practices will be implemented. Section II of this guide examines cities' roles and responsibilities in this transformation and includes templates for municipal ordinances and sample policies for human resources departments that can be utilized in part or in full depending on what works best for each city.

### **Federal Protections for Transgender Individuals**

**Title VII of the 1964 Civil Rights Act** prohibits discrimination on the basis of sex (among other characteristics) by an employer with 15 or more employees. At the Federal level, there is no policy or law that protects a transgender individual's right to their asserted name and pronoun, although recent court cases have found that LGBT people are protected under the 1964 Civil Rights Act.

### **California Protections for Transgender Individuals**

- **CA Fair Employment and Housing Act (FEHA) (Govt Code, Title 2, Division 3, Part 2.8).** This act makes it unlawful for an employer to refuse to hire or employ a person or to discharge a person from employment or to discriminate in compensation or in terms, conditions or privileges of employment because of a person's gender identity.



- **Unruh Civil Rights Act (Civil Code Division 1 Part 2 Sec 51).** This legislation specifically outlaws discrimination based on sex (including the associated characteristics of gender, gender identity, and gender expression), race, color, religion, ancestry, national origin, age, disability, medical condition, marital status, or sexual orientation. This law applies to all businesses such as hotels and motels, restaurants, theaters, hospitals, barber and beauty shops, housing accommodations, and retail establishments.
- **AB 1732: The Equal Restroom Access Act:** Commencing March 1, 2017, this act addresses gender identity discrimination by making it mandatory for all single-occupancy restrooms (“a toilet facility with no more than one water closet and one urinal with a locking mechanism controlled by the user”) in businesses, government buildings, and public places to be available to everyone, with corresponding visual designation as an “all gender” facility, regardless of gender identity.

While enacting the law mostly amounts to changing the sign on a bathroom door to a gender-neutral symbol, the bill resolves larger issues of safety, fairness, and convenience for transgender and gender non-conforming individuals by eliminating single-gender restrooms in these places. It protects people from harassment and violence by making single-occupancy restrooms accessible to everyone. The law also helps those who want to accompany individuals of a different sex to the bathroom (i.e., parents, caretakers etc.).

AB 1732 does not address multi-stall bathrooms, nor does it require any workplaces to add to existing facilities. If your workplace only provides multi-stall bathrooms, then this law does not affect your place of work.

- **Department of Managed Health Care, Memo 12-K April 9, 2013**  
**Gender Nondiscrimination Requirements:** Memo 12-K explicitly reminds health care services plans that under the 2012 Gender Nondiscrimination Act in Health and Safety Code section 1365.5, health plans are prohibited from discriminating against individuals because of the individual’s gender, including gender identity or gender expression. This prohibition extends to the availability of health coverage and the provision of benefits. Transgender persons both cannot be excluded from insurance coverage in the state and insurance policies must cover all medically necessary medical care, including transition specific medical care.

### Creating Policy - Next Steps

After gaining a better understanding of the issues and state mandates as well as definitions, best practices and road maps pertaining to the transgender community in Section II of this guide, council members and city staff could meet with various departments in each city to see what can be done to

create policies to promote a more inclusive city government where all employees feel valued. High-level policy recommendations to change policy would include<sup>(9)</sup>:

- Creating policy solutions and social change allowing all people to achieve economic security, regardless of race or ethnicity, sexual orientation, gender, gender identity, or other characteristics. Central to achieving this goal are:
  - creating and supporting jobs that pay adequate wages and offer good benefits;
  - providing quality educational opportunities that allow people to obtain good jobs;
  - strengthening the safety net to provide vital assistance to people during times of crisis; and
  - supporting families.
- Updating municipal code, ordinances, policies and procedures to conform to federal and state laws related to discrimination against transgender people, including the following:
  - Cities should update nondiscrimination ordinances to explicitly include gender identity and sexual orientation in the areas of employment and employee compensation benefits.
  - Cities should assure that administrative procedures and processes do not create barriers to obtain identity documents which reflect the gender identity of the employee.

As mentioned earlier, some cities may opt to create policies within their Human Resources Department, while others may opt to enact city ordinances. Some may do both. Each city will know what is right for their community.

Cities can also establish a transgender advisory committee to examine where it currently stands in regards to transgender inclusion and anti-discrimination policies, where it would like to go, what tools it has to educate employees, and how best to make those changes. Topics to consider:

- How does your city represent a workplace of acceptance?
- Has your city adopted nondiscrimination policies within all of its programs and services, such as for parks and recreation, housing, social services, and public safety?
- Does your city's website reflect a diversified workforce that has a culture of acceptance?
- What materials has your city posted to encourage acceptance?
- Does your city include a section on the work culture in your recruitment material?

## SECTION II: DEFINITIONS, BEST PRACTICES, ROAD MAPS AND RESOURCES

### Introduction

The information provided in Section II is intended to help city managers and supervisors gain a better understanding of and assist employees who are transgender or gender non-conforming. It also discusses how city human resources (HR) departments can make the workplace more welcoming for employees who self-identify as transgender and/or are transitioning.

**Transgender:** Having a gender identity and/or gender expression that is different from one's sex assigned at birth.

**Transition:** The process of changing one's gender from the sex assigned at birth to match one's gender identity.

Section II also provides information on best practices to support transgender employees and their coworkers. A lack of knowledge about transgender issues and/or gender transition has the potential for creating misunderstanding and tension in the workplace. To assure that City Hall is a hospitable workplace for transgender and gender non-conforming employees, cities can <sup>(10)</sup>:

1. Make tolerance part of the workplace culture by having strong inclusive provisions in personnel policies and/or local ordinances, and awareness of gender identity in diversity training curricula.
2. Ensure that all employees are aware of city policies on harassment and discrimination based on sex, gender, sexual orientation, gender identity and/or gender expression, and are expected to adhere to them.
3. Address employees by their asserted names and corresponding pronouns, irrespective of the name and/or gender marker on their city-issued identification.
4. Implement reasonable workplace appearance and dress standards that allow employees to appear or dress consistently with their gender identity.
5. Consider assigning a gender-neutral restroom or locker room to accommodate all employees, irrespective of gender identity.
6. Ensure the privacy and confidentiality of employees who have disclosed that they identify as transgender or that they will be transitioning.

## DEFINITIONS

Everyone has a sex assigned at birth, gender expression, gender identity, and a sexual orientation. The terminology or definitions provided below are not intended to label employees but rather to assist in understanding the different terminology that may be encountered. Please recognize that the understanding of these and other terms may be different for each person. Transgender employees may or may not use these terms to describe themselves.

- **Assigned Sex at Birth:** A specific set of genetic, chemical and anatomical characteristics that we are either born with or that develop as we mature as well as the assignment of "male" or "female" based upon the genitalia that an individual possesses at birth.
- **Bi-Gender:** Someone whose gender identity encompasses both genders, male and female. Some may feel that one side or the other is stronger, but both sides are there (The National Center for Transgender Equality, 2013).
- **Cisgender:** Individuals whose gender identity matches their assigned sex at birth.
- **Coming Out:** Refers to the process by which one accepts one's own sexuality, gender identity, or status as an intersex person (to "come out" to oneself). May also refer to the process by which one shares one's sexuality, gender identity, or intersexed status with others (to "come out" to friends, etc.) (University of Riverside, LGBT Resource Center, 2004).
- **Gender Binary:** The idea that there are only two genders – male/female or man/woman and that a person must be strictly gendered as either/or (University of Riverside, LGBT Resource Center, 2004).
- **Gender Confirmation Surgery:** Surgical procedures that change one's body to better reflect a person's gender identity. The term "sex reassignment surgery" is considered outdated and the term "sex change" is considered offensive. Gender confirmation surgery may include many different procedures, including those sometimes referred to as "top surgery" (breast augmentation or chest reconstruction) or "bottom surgery" (altering genitals). Contrary to popular belief, there is not one surgery; in fact there are many different surgeries. These surgeries are medically necessary for some people; however, not all people want, need, or can have surgery as part of their transition.
- **Gender Expression/Gender Presentation:** How a person represents or expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice, or body characteristics (The National Center for Transgender Equality, 2013).

- **Gender Identity:** A person's internal, deeply-felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth. Everyone has a gender identity. Gender identity is generally determined in the early years of an individual's life and, if different from the individual's physical gender, may result in increasing psychological and emotional discomfort and pain.
- **Gender Non-Conforming:** Can be used to describe having, or being perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Social expectations for gender vary across cultures and have changed significantly over time.
- **Genderqueer:** A term used by some individuals who identify as neither entirely male nor entirely female (The National Center for Transgender Equality, 2013).
- **Homophobia:** The irrational fear or hatred of homosexuals, homosexuality, or any behavior or belief that does not conform to rigid sex role stereotypes. It is this fear that enforces sexism as well as heterosexism (University of Riverside, LGBT Resource Center, 2004).
- **LGBTQ:** A common abbreviation that refers to lesbian, gay, bisexual, transgender, and queer/questioning communities.
- **Outing:** Involuntary disclosure of one's sexual orientation, gender identity, or intersex status (University of Riverside, LGBT Resource Center, 2004).
- **Pansexual:** A person who is sexually attracted to all or many gender expressions (University of Riverside, LGBT Resource Center, 2004).
- **Queer:** A term used to refer to lesbian, gay, bisexual, and sometimes also transgender people. Some use queer as an alternative to gay in an effort to be more inclusive. Depending on the user, the term has either a derogatory or an affirming connotation, as many have sought to reclaim the term that was once widely used in a negative way (The National Center for Transgender Equality, 2013).
- **Sexual Orientation:** A term describing a person's attraction to members of the same sex and/or a different sex, usually defined as lesbian, gay, bisexual, heterosexual, or asexual (The National Center for Transgender Equality, 2013). It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be lesbian, gay, bisexual, straight, or queer just like cisgender people.

- **Transgender:** Having a gender identity and/or gender expression that is different from one's sex assigned at birth. This can manifest in various ways:
  - When the sex assigned at birth is male but the individual identifies as female (sometimes referred to as a transgender woman or a male-to-female [MTF] transgender person).
  - When the sex assigned at birth is female but the individual identifies as male (sometimes referred to as a transgender man or a female-to-male [FTM] transgender person).
  - When a person's gender identity is both (male and female), neither, or something else (sometimes referred to as genderqueer, third gender, gender fluid, or as having a non-binary gender identity).
  - Some people described by this definition might not consider themselves transgender – they may identify simply as a man or woman. Transgender people may self-identify as transgender, transwoman, or transman or, by a variety of terms used in specific cultures, or one of many other identities.
  - Some people may be familiar with the term transsexual. Because this term is thought to be outdated and sounds overly clinical, many people prefer to use the word transgender.
  - A person does not need to identify as transgender in order for an employer's nondiscrimination policies to apply to them.
- **Transition:** The process of changing one's gender from the sex assigned at birth to match one's gender identity. There are many different ways to transition. A transition can be social, legal, and/or medical.
  - For some people, the gender transition takes place over a long period of time. For others it is a one- or two-step process that happens more quickly.
  - Transition may include the emotional task of "coming out" (telling family, friends, and coworkers), changing the name and/or sex on legal documents, and/or accessing medical treatment such as counseling, hormone replacement therapy, electrolysis and/or gender confirming surgery.
- **Transphobia:** The irrational fear of those who are transgender, gender variant and/or the inability to deal with gender ambiguity (University of Riverside, LGBT Resource Center, 2004).

The following are best practices that some of California's local jurisdictions have adopted to ensure their workplaces are free from discrimination and harassment towards transgender employees:

- **Confidentiality/Privacy:** The coming out process is one which often requires confidentiality and privacy to protect the transgender individual from discrimination, harassment, and rejection. Transgender employees have the right to discuss their gender identity or expression openly, or to keep that information private. The transgender employee gets to decide when, with whom, and how much to share regarding their private information. Information about an employee's transgender status (such as the sex they were assigned at birth) is considered confidential medical information under privacy laws such as the Health Insurance Portability and Accountability Act (HIPAA) of 1996.

With few exceptions, employers do not need to know about a transgender employee's medical treatments beyond planning for potential medical leave for transitioning employees. However, some detailed conversations may become necessary in the process of attaining adequate insurance coverage from an employee health plan.

State and federal laws, including HIPAA, govern the privacy of individual health information. While healthcare providers and plans – rather than employers – are bound by the privacy obligations under HIPAA, more robust state laws, and a general interest in maintaining employee privacy, should discourage most inquiries into a transgender employee's medical status as well as disclosure of any voluntarily-provided health information to unnecessary staff.

Co-workers, supervisors, managers or HR should not disclose information that may reveal an employee's transgender status or gender non-conforming presentation to others. Discussions about the employee's personal situation and medical treatment – including surgical procedures or hormone use – should be off-limits in the workplace. That kind of personal or confidential information may only be shared with the transgender employee's consent and with coworkers who truly need to know to do their jobs; in other words, on a need-to-know basis.

- **Dress Codes:** Transgender and gender non-conforming employees have the right to comply with dress codes and professional appearance standards in a manner consistent with their gender identity or gender expression. The following do not constitute reasons to



with their gender identity or gender expression. The following do not constitute reasons to deny an individual the right to dress according to their gender identity:

- Working with the public, vendors, and/or outside agencies.
- Coworker, supervisor, and/or manager preferences or comfort level.
- Public, vendor, and/or outside agency preferences or comfort .

- **Discrimination / Harassment:** City governments should emphasize that discrimination and harassment is unlawful and violates their city's harassment, discrimination, and retaliation prevention policy to discriminate in any way against an employee because of the employee's actual or perceived gender identity. Further, cities can state that their city is committed to creating a work environment of respect and support for all employees including transgender and gender non-conforming employees

Any incident of discrimination, harassment, or violence based on gender identity or gender expression should be given immediate and effective attention, including, but not limited to, investigating the incident, taking suitable corrective action, and providing employees and staff with appropriate resources.

Some examples of violations a supervisor would need to address include:

- Denying an employee access to locker rooms and/or restrooms that correspond to their gender identity or gender expression.
  - Prohibiting an employee from dressing according to their gender identity or gender expression.
  - Refusing to respect an employee's asserted name and/or gender identity or gender expression. For example, intentionally and/or persistently referring to an employee by a name or pronouns that do not correspond to the employee's gender identity can constitute harassment. Initially, some infrequent and unintentional references to the former identity will likely occur (especially in the first month or two of the transition process) simply due to habit and human error. However, everyone must adjust to using the new name and pronouns as quickly as possible.
- **Education and Training:** Cities can offer education and training opportunities on a regular basis to all employees on transgender issues, which include related city policies, to help promote a positive work environment for all employees and to answer questions. Keep in mind the important goals of engaging the employees, exposing employees to different cultures, and encouraging social accountability for change.
  - Education and training can also provide important information to employees on what to expect when an individual begins their transition and help to establish a level of comfort as to



what the transition is and why it is happening, both of which are important for preventing future misunderstandings or issues in the workplace. San Francisco's Transgender Law Center, as well as many local LGBT centers (you can search for your closest center by visiting [www.lgbtcenters.org](http://www.lgbtcenters.org)) regularly conduct these kinds of trainings.

Education/training for employees is crucial to developing a workplace culture that is accepting, welcoming, and inclusive. Some ways to do this are:

- Provide regular trainings on gender identity and gender expression and include the training in new hire orientations for management and for employees.
  - Film the trainings and post them on your intranet and include them in the "on-boarding" process.
  - Send out a survey after each training or event for quality improvement.
  - Increase awareness through staff development activities, such as:
    - Lunch and Learn
    - Film screenings and panel discussions
    - External speakers
    - Interview series on transgender with staff
    - Create guidelines for trainings and discussions
  - Educate management on legal consequences of not addressing harassment and discrimination.
  - Send the message to all staff that each employee is valued and respected, and that differences are celebrated.
- **Employee Recruitment and Retention.**

Items to consider for employee recruitment and retention include:

    - Review and update hiring forms and processes, and incorporate the new protected classes into the Equal Employment Opportunity language in contracts.
    - Review and update employee handbooks, policies, and job solicitations to include sexual orientation and gender identity in the list of protected classes.
    - In some cases, the name and gender on an employment application may not correspond with the applicant's stated name and gender. Background checks may disclose a different name or gender. Remember that no medical procedure is required to confirm transgender identity.

- Supervisors and managers should confirm what name and gender is preferred in the recruitment and employment process.
  - Nurture and create a culture of acceptance.
  - Create venues employees can use to provide feedback.
  - Avoid negative messaging.
  - If your jurisdiction conducts exit interviews on a regular basis, you may consider adding questions about inclusion and diversity.
- **Health Insurance Benefits:** Carefully examine your city's current insurance plans to see if there are any transgender exclusions that obstruct access to medically necessary care for transgender employees. This is especially important in California where transgender exclusions are illegal.
  - **Locker Room Accessibility:** All employees should have the right to use a city's locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area, or using the locker room that corresponds to their gender identity before or after other employees. Additionally, an employee's schedule may also be slightly adjusted so that they may use the locker room that corresponds to their gender identity before or after other employees.
  - **Leave Benefits:** Cities can instruct their employees to follow current policies and make reasonable efforts to support and accommodate all regular status employees who are temporarily unable to perform the essential functions of their job. When an employee requests leave to meet their needs for appointments, requests should not be unreasonably denied. Time off for medical procedures should be treated the same as other scheduled medically necessary procedures.
  - **Names / Pronouns:** An employee has the right to be addressed by the name and pronoun that correspond to the employee's gender identity, upon request. A court-ordered name or gender change is not required.

City employees are not required to believe in, approve of, or accept an individual's right to be transgender. However, they must respectfully use the transitioning employee's new name and pronouns. The intentional or persistent refusal to respect an employee's gender identity (for example, intentionally referring to the employee by a name or pronoun that does not correspond to the employee's gender identity) can constitute harassment as noted in the Discrimination/Harassment section above. In general, it is considered insensitive to refer to someone by the wrong name or pronouns once it has been

insensitive to refer to someone by the wrong name or pronouns once it has been established which set of pronouns or name the employee has asserted.

In addition to the traditional pronouns (he/him, she/her, they), some people use gender-neutral pronouns, such as they/them/theirs, ne, ve, ze/zie and xe. If a co-worker is transitioning and you are not certain which pronouns to use, it is appropriate to respectfully ask the name they use and which pronouns you should use when speaking or referring to them.

- **Personnel Files / Official Records:** Cities must change an employee's official personnel records to reflect a change in name or gender upon request from an employee. Certain types of records, like those relating to payroll, insurance and retirement accounts, will require a legal name change before these records can be changed. After the employee provides HR with official notification of a legal name change, HR will update personnel and administrative records accordingly.

Most records, however, can be changed to reflect a person's asserted name without proof of a legal name change.

The supervisor should work with the employee, administrative staff, information technology, HR, and other pertinent city departments to ensure information is updated by the first day of an employee's workplace transition, particularly in the areas listed below. Although it may take a few weeks' notice to complete the steps that need to be addressed in the employee's workplace transition plan, every effort should be made to have them completed by the first day of the employee's workplace transition.

- The employee's work station name plate, name tag, and access/identification card should reflect their new name.
- Organization charts, team rosters, city webpage listings, and phone directories should reflect their new name.
- The employee's email address should reflect their new name.
- Photographs on their access/identification card and photographs on display in the workplace should portray the individual according to their gender identity.

Transitioning employees who have questions about their city's personnel records or identification documents should be directed to their city's HR department.

- **Restroom Accessibility:** State law prohibits discrimination on the basis of gender identity. This includes access to sex-segregated facilities. Employees must have access to the restroom corresponding to their gender identity regardless of the employee's sex assigned at birth. That is, transgender women must be permitted to use the women's

restroom, and transgender men must be permitted to use the men's restroom. That decision should be left to the transgender employee to determine the most appropriate option for them. Additionally, it is recommended that any employee who has a need or desire for increased privacy, regardless of the underlying reason, be provided access to a single-stall or private restroom, when available. More information on anti-discrimination provisions in State law are found in Section I (California Protections for Transgender Individuals, AB 1732: The Equal Restroom Access Act) of this guide.

## ROLES AND RESPONSIBILITIES

- **Guidance for Transitioning Employees:** Transitioning individuals have the right to openly be who they are. This means that while transitioning employees will still be expected to conduct their professional responsibilities, they may express their gender identity without fear of discrimination or harassment. With that right comes the expectation that they will work with others to ensure their needs are understood and that there will also be expectations made of them. It is important they do their part to make their transition in the workplace successful.

Once they have decided to transition publicly at work, the first step for them is to inform key personnel who can work with them to be of assistance. The first point of contact could be their immediate supervisor/manager or HR staff. If they are not sure or perhaps uncomfortable contacting their supervisor/manager or HR, they may contact someone in their city's social services division. They should be provided with the individuals or program names to contact for assistance in their transition process as it relates to their employment within their city, working with them to develop a transition plan which will address things such as if, how, and when an announcement is made to other employees where they work; dress codes; using city restrooms or locker rooms; changing their name on payroll, retirement records, emails and name badges; and which pronouns they wish to use.

If any physical/medical accommodations are needed, they must follow the current city policy governing reasonable accommodations.

- **Guide for Supervisors and Managers:** It is important that supervisors and managers demonstrate an understanding and sensitive approach to the needs and concerns of employees who are transitioning, as their support is critical. It may be frightening to an employee to make themselves vulnerable to a person in a supervisory capacity.

If an employee informs a supervisor or manager of their desire to transition or if an individual in the workplace is currently transitioning, it is the supervisor's or manager's professional responsibility to ensure that the employee is not the target of discrimination or harassment and that compliance is maintained with the city's policy. Any employee's failure to comply with the non-discrimination policy could result in corrective action, including termination of their employment.

Supervisors and managers are not expected to understand all of the employee's needs, but are expected to fully inform themselves and provide the necessary support to enable the individual to receive the assistance they need in a respectful manner. The employee would like to feel confident that the individuals who will help plan their workplace gender transition will take steps to inform themselves about transgender issues.

**Do:**

- ✓ Make it clear that the conversation will be held in confidence, not only to ensure the employee's rights are protected but also help avoid inadvertent violations of the employee's right to medical privacy.
- ✓ Obtain permission from the employee prior to discussing the transition with or seeking further assistance from anyone, including other staff, your own supervisor, other managers, and HR.
- ✓ Listen carefully to what the individual is telling you about how they want the workplace transition to proceed.
- ✓ Become informed. See the Resources section of this guide as a starting point. Let the employee know that you are taking steps to educate yourself about how you can assist their workplace gender transition, and let the employee also know that you welcome their input.
- ✓ Remind them about the additional resources available to them, such as the Employee Assistance Program. You can share the Resources section of this guide with them as well.
- ✓ Make sure the employee is aware of the city's protocols, procedures and encourage them to contact you or HR with any questions or feedback.

**Do not:**

Ask the employee about their medical decisions, as medical information is private and protected by law. If the employee needs time off for medical care or recovery, follow the same steps used for any request for time off for medical reasons.

- **City personnel:** It is the responsibility of all city employees to treat each other with respect and dignity as well as to uphold the city's policies. City personnel having questions or concerns regarding a transitioning coworker should contact their city's Equal Opportunity Officer. An employee's failure to comply with the non-discrimination policy could result in corrective action.
- **Sex-Segregated Job Assignments:** For sex-segregated job assignments, transgender employees will be classified and assigned in a manner consistent with their gender identity, not their sex assigned at birth.
- **Workplace Transition Plan:** This part addresses many of the processes that may occur during an employee's gender transition. This plan should be modified with input from the supervisor or manager and the transitioning employee to meet the needs of the employee and the organization. Please see the *Workplace Gender Transition Protocols* by the City of Santa Rosa located in the appendices of this guide. It contains the following information:
  - Before the Workplace Transition Begins
  - The Day the Transition will be made known
  - The First Day of the Employee's Workplace Transition
  - How Transitioning Employees Can Prepare

## ROAD MAPS

This section references various materials and sample policies to aid city governments in developing their own gender transitioning policies and ordinances. These materials, located in the appendices section of this guide, have been generously provided by the following entities and include:

- Transition Plan Checklist, City of Santa Rosa
- Sample Workplace Transition Plan, City of Santa Rosa
- Sample Ordinances/Policies:
  - City of Santa Rosa Workplace Gender Transition Protocols
  - City of West Hollywood Workplace Gender Transition Guidelines
  - Santa Clara Valley Water District Transitioning Policy

The following are resources for cities to use and to provide to employees who would like more information on transgender persons and/or the transition process. Although this list is not inclusive as many cities have local organizations which provide information and support for LGBTQ issues, it is a good start to obtain information locally, statewide and nationally.

### **CA Fair Employment and Housing Act (FEHA)**

[http://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?lawCode=GOV&sectionNum=12940](http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV&sectionNum=12940).

*Prohibits discrimination or harassment in employment or housing on the basis of, among other things, a person's gender, gender identity, and gender expression.*

### **CenterLink**

[www.lgbtcenters.org](http://www.lgbtcenters.org)

(954) 765-6024

PO Box 24490

Fort Lauderdale, FL 33307

*A resource to search for the closest LGBT center within or near your city.*

### **City and County of San Francisco, Board of Supervisors**

Police, Administrative Codes - All-Gender Toilet Facilities

[http://sfbos.org/all-pages-docs?as\\_q=53-16&cof=FORID%3A11&ie=UTF-8](http://sfbos.org/all-pages-docs?as_q=53-16&cof=FORID%3A11&ie=UTF-8)

*In April 2016, Ordinance 53-16 was amended to mandate that businesses and places of public accommodation designate single-user toilet facilities that are available to the public or employees as all-gender and accessible to persons of any gender identity.*

### **City of West Hollywood Transgender Resource Guide**

[www.tinyurl.com/transweho](http://www.tinyurl.com/transweho)

*A resource guide produced by the City of West Hollywood to support the transgender community and enhance and improve the health and well being of its citizens.*

### **Gender Revolution: A Journey with Katie Couric**

<http://channel.nationalgeographic.com/gender-revolution-a-journey-with-katie-couric>

*This is a 2017 documentary film about gender identity, produced by Katie Couric, National Geographic, and World of Wonder.*



## Human Rights Campaign Transgender Toolkit

<http://www.hrc.org/campaigns/trans-toolkit>

*"Transgender Inclusion in the Workplace: A Toolkit for Employers" produced by the Human Rights Campaign, provides practical guidance in creating a more inclusive workplace for transgender and gender non-conforming employees. The Human Rights Campaign represents a force of more than 1.5 million members and supporters nationwide. As the largest national lesbian, gay, bisexual, transgender and queer civil rights organization, HRC envisions a world where LGBTQ people are ensured of their basic equal rights, and can be open, honest and safe at home, at work and in the community.*

## Lambda Legal

[www.lambdalegal.org/issues/transgender-rights](http://www.lambdalegal.org/issues/transgender-rights)

*Lambda Legal expands and defends protections for transgender people under federal, state and local laws and other policies. They have a help desk to call with questions on transgender issues, and feature publications on transgender community issues and employment.*

## The Los Angeles Gender Center

<http://www.lagendercenter.com>

(310) 475-8880

1923 Westwood Boulevard

Los Angeles, CA 90025

[staff@lagendercenter.com](mailto:staff@lagendercenter.com)

*The LA Gender Center provides counseling, support and education for gender diversity. They specialize in gender identity, gender expression, and sexual orientation. LAGC staff and its therapists are often called upon to offer trainings and continuing education for professionals and institutions, including workplace settings.*

## Los Angeles LGBT Center

[www.lalgbtcenter.org](http://www.lalgbtcenter.org)

1625 Schrader Boulevard

Los Angeles, CA 90028

(323) 993-7400

*The LA LGBT Center provides direct support services for the LGBTQ community of Los Angeles. Services include comprehensive health, wellness, social, support, and advocacy services for the LGBTQ community.*



**Los Angeles County Sheriff's Department**

<http://sheriff.lacounty.gov/wps/portal/lasd/search/?querytext=transgender%20policies&department=LASD&lang>

*The Los Angeles Sheriff's Department in 2017 implemented a new policy that outlines how personnel must interact and treat the transgender community.*

**The LGBTQ Center Long Beach**

<https://www.centerlb.org>

(562) 434-4455

2017 E. 4<sup>th</sup> Street

Long Beach, CA 90814

[info@centerlb.org](mailto:info@centerlb.org)

*The LGBTQ Center of Long Beach provides direct support services for the LGBTQ community of Long Beach. Services include comprehensive health, wellness, social, support, and advocacy services for the LGBTQ community.*

**National Center for Transgender Equality**

<http://www.transequality.org>

(202) 642-4542

1400 16th St. N.W., Suite 510

Washington D.C. 20036

[NCTE@NCTEquality.org](mailto:NCTE@NCTEquality.org)

*The National Center for Transgender Equality (NCTE) is a social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment, educating and influencing policymakers and others. The NCTE addresses issues such as employment, health, identity documents and confidentiality for transgender persons, and produces reports and other documents.*

**Transgender Law Center**

[www.transgenderlawcenter.org](http://www.transgenderlawcenter.org)

(415) 865-0176

1629 Telegraph Avenue, Suite 400

Oakland, CA 94612

[info@transgenderlawcenter.org](mailto:info@transgenderlawcenter.org)

*The Transgender Law Center works to change law, policy and attitudes so that all people can live safely, authentically and free from discrimination regardless of their gender identity or expression. They provide information on employment, health and identity documents among other things.*

### Section III: Endnotes

- (1) *National Transgender Discrimination Survey*, National Center for Transgender Equality, 2016.
- (2) Ibid.
- (3) Ibid.
- (4) *Paying an Unfair Price: The Financial Penalty for Being Transgender*, Center for American Progress and the Movement Advancement Project, 2015.
- (5) *Gay and Transgender Discrimination in the Public Sector: Why It's a Problem for State and Local Governments, Employees, and Taxpayers*. Center for American Progress, September 2012.
- (6) *National Transgender Discrimination Survey: Executive Report*, National Center for Transgender Equality, 2012.
- (7) *Global Cities: A Short History*, Greg Clark. Brookings Institution, 2016.
- (8) *Paying an unfair price: The Financial Penalty for Being Transgender*, Center for American Progress and the Movement Advancement Project, 2015.
- (9) Ibid.
- (10) *Transgender Rights in the Workplace: A Guide for Employers to Protect Against Harassment & Discrimination*, Lewitt Hackman, 2015.

# CITY OF WEST HOLLYWOOD

## WORKPLACE GENDER TRANSITION GUIDELINES

CITY COUNCIL  
CONSENT CALENDAR

MARCH 21, 2016

SUBJECT: **WORKPLACE GENDER TRANSITION GUIDELINES**  
 PREPARED BY: **ADMINISTRATIVE SERVICES DEPARTMENT**  
 (Christof Schroeder, Director of Administrative Services)  
 (Susan Schumacher, Human Resources Division, HR Manager)  
 (Bill Friedel, Human Resources Division, HR Analyst)

### **STATEMENT ON THE SUBJECT:**

The City Council will receive a City Policy on Workplace Gender Transition Guidelines.

### **RECOMMENDATION:**

Receive and file

### **BACKGROUND / ANALYSIS:**

On October 19, 2015, the City Council directed the Human Resources Division to develop Workplace Gender Transition Guidelines for the City of West Hollywood.

Workplace Gender Transition Guidelines set protocols for gender transitions that help to delineate responsibilities and expectations of transitioning employees, their supervisors, colleagues and other staff. Should an employee approach their manager or Human Resources with the intention to transition, the gender transition guidelines will be available as a resource to consistently and appropriately manage the situation. The guidelines are flexible to meet the needs of the individual, but also provide a consistent framework for the employee and the City.

The process for developing the gender transition guidelines was a collaborative effort involving Social Services, Public Safety and the City Manager's Department. Human Resources managed the process and took the initial step to create a policy outline. The draft policy outline was based on the sample model policy from the Transgender Law Center. This draft policy was thoroughly reviewed by a team of subject matter experts from each of the mentioned divisions. Human Resources convened several meetings with this team over a two month period where ideas were discussed and several policy drafts were revised. Once the team had finalized all the edits to the draft policy, it was sent to the City Attorney for review and comment. The City Attorney provided some additional edits that were incorporated into the policy.

At the conclusion of this process, the final policy guidelines were vetted through the Transgender Advisory Board (TAB). The TAB provided additional feedback related to training and guidance for transitioning employees. This feedback was helpful in further clarifying some of the policy content. After the feedback from TAB was incorporated, a final version of the policy guidelines was completed.

The City of West Hollywood's Policy on Workplace Gender Transition Guidelines provides not only a resource to employees but will be able to serve as a model for other businesses in the City.

**CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:**

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:

- OSP-2: Institutional Integrity.
- OSP-5: Support People through Social Services.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

- HS-1: Maintain and pursue humane social policies and social services that address the needs of the community.

**EVALUATION PROCESSES:**

The City will periodically review the policy content to ensure evolving legislation and terminology is properly reflected in the guidelines.

**ENVIRONMENTAL SUSTAINABILITY AND HEALTH:**

Not applicable

**COMMUNITY ENGAGEMENT:**

The policy guidelines were vetted through the Transgender Advisory Board and feedback was received related to training and guidance for transitioning employees. This feedback was incorporated into the guidelines providing further clarification on these specific guidelines within the policy.

**OFFICE OF PRIMARY RESPONSIBILITY:**

ADMINISTRATIVE SERVICES DEPARTMENT | HUMAN RESOURCES DIVISION

**FISCAL IMPACT:**

There is no fiscal impact.

## CITY OF WEST HOLLYWOOD

No. XXX  
Effective Date: XX-XX-16

## SUBJECT: WORKPLACE GENDER TRANSITION GUIDELINES

**Purpose**

This policy sets forth guidelines to address the needs of transgender and gender nonconforming employees and helps address issues that arise in the workplace when a transgender person transitions on the job at the City. This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming employees, and the needs of each transgender or gender non-conforming employee must be assessed on a case-by-case basis. In all cases, the goal is to ensure the respect and support for all employees, including transgender or gender non-conforming employees while maximizing the employee's workplace integration and minimizing stigmatization of the employee.

**Terminology**

The terminology provided here is not intended to label employees but rather to assist in understanding the different terminology that may be encountered. Please recognize that the understanding of these and other terms may be different for each person. Employees may or may not use these terms to describe themselves.

*EVERYONE HAS A ...*

Sex Assigned at Birth  
Gender Expression  
Gender Identity  
Sexual Orientation

**Gender Expression:** An individual's characteristics and behaviors (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine or feminine.

**Gender Identity:** A person's internal, deeply-felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth. Everyone has a gender identity.

**Gender Non-conforming:** This term describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Keep in mind that these expectations can vary across cultures and have changed over time.

**Sexual Orientation:** A person's physical or emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be gay, lesbian, bisexual, or straight, just like non-transgender people.

**Transgender:** An umbrella term that can be used to describe people whose gender identity and/or expression is different from their sex assigned at birth. Other terms might

be used and this should not be viewed as a comprehensive list of terms.

- A person whose sex assigned at birth was female but who identifies as male is a transgender man (also known as female-to-male transgender person, or FTM).
- A person whose sex assigned at birth was male but who identifies as female is a transgender woman (also known as male-to-female transgender person, or MTF).
- Some people described by this definition might not consider themselves transgender - they may identify simply as a man or woman. Transgender people may self-identify as transgender, transwoman, or transman or, by a variety of terms used in specific cultures, or one of many other transgender identities.
- Some people may be familiar with the term transsexual. Because this term is thought to be outdated and sound overly clinical, many people prefer to use the word transgender.
- A person does not need to identify as transgender in order for an employer's nondiscrimination policies to apply to them.

**Transition:** The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many different ways to transition. For some people, it is a complex process that takes place over a long period of time, while for others it is a one- or two-step process that happens more quickly. Transition may include "coming out" (telling family, friends, and coworkers); changing the name and/or sex on legal documents; and, for many transgender people, accessing medical treatment such as hormones and surgery.

### **Confidentiality**

Transgender employees have the right to discuss their gender identity or expression openly, or to keep that information private. The transgender employee gets to decide when, with whom, and how much to share their private information. Information about an employee's transgender status (such as the sex they were assigned at birth) can constitute confidential medical information under privacy laws like HIPAA.

Co-Workers, supervisors / managers, or Human Resources should not disclose information that may reveal an employee's transgender status or gender non-conforming presentation to others. That kind of personal or confidential information may only be shared with the transgender employee's consent and with coworkers who truly need to know to do their jobs.

**Leave Benefits**

The City will follow current policies and make reasonable efforts to support and accommodate all regular status employees who are temporarily unable to perform the essential functions of their position. When an employee requests leave to meet their needs for appointments, such leave requests shall not be unreasonably denied. Time off for medical procedures will be treated the same as other scheduled medically necessary procedures.

**Personnel Files | Official Records**

The City will change an employee's official personnel records to reflect a change in name or gender upon request from the employee. Certain types of records, like those relating to payroll and retirement accounts, shall require a legal name change before the person's name can be changed. Most records, however, can be changed to reflect a person's preferred name without proof of a legal name change.

As quickly as possible, the City will make every effort to update any photographs at the transitioning employee's workplace so the transitioning employee's gender identity and expression are represented accurately.

If a new or transitioning employee has questions about City personnel records or ID documents, the employee should contact Human Resources.

**Names | Pronouns**

An employee has the right to be addressed by the name and pronoun that correspond to the employee's gender identity, upon request. A court-ordered name or gender change is not required. The intentional or persistent refusal to respect an employee's gender identity (for example, intentionally referring to the employee by a name or pronoun that does not correspond to the employee's gender identity) can constitute harassment and is a violation of this policy. In general, it is considered insensitive to refer to someone by the wrong pronouns once you have established which set of pronouns he or she prefers.

**Note on pronouns:** If a co-worker is transitioning and you are not certain which pronouns to use, it is appropriate to respectfully ask his or her name and which pronouns you should use.

**Transitioning at Work**

Employees who transition on the job can expect the support of Social Services, Human Resources, and City management. Social Services and Human Resources will work with each transitioning employee individually to establish a transition plan and ensure a successful workplace transition.

**Guidance for Transitioning Employees**

If you are a transitioning employee, you have the right to openly be who you are. This means expressing your gender identity, characteristics or expression without fear of consequences. It is important, however, that you inform key staff who can assist you.

Your first point of contact may be your immediate supervisor/manager or Human Resources.

Contact should be made by the employee giving as much advanced notice as possible of the employee's planned transition date. Explain your intentions, needs and concerns to the person to whom you've chosen to speak to disclose your plan for transition.

If you are not sure or perhaps uncomfortable contacting the above-mentioned individuals, contact the Social Services Division and they can help provide the right connections.

### **Guidance for Supervisors and Managers**

If you have an employee who is transitioning, it is important that you demonstrate an understanding and sensitive approach to their needs and concerns. It may be frightening to an employee to make himself or herself vulnerable to a person in a supervisory capacity.

If your employee informs you of their desire to transition or if an employee is currently in the transitioning process, your support is critical.

Be open-minded and discuss with the employee his/her needs and concerns. Make it clear to the employee that your conversation will be held in the strictest of confidence. Explain any concerns you might have and ask the employee's opinion regarding the best method and time for informing co-workers about the transition process.

### **Education and Training**

Educational and training sessions will be offered to all employees on transgender issues, including related City policies; this training will help promote a positive work environment for all employees and answer questions. This training will also provide important information to employees on what to expect when an individual begins their transition and help to establish a level of comfort as to what the transition is and why it is happening, both of which are important for preventing future misunderstandings or issues in the workplace.

### **Restroom Accessibility**

Employees shall have access to the restroom corresponding to their gender identity regardless of the employee's sex assigned at birth. That is, transgender women must be permitted to use the women's restroom, and transgender men must be permitted to use the men's restroom. That decision should be left to the transgender employee to determine the most appropriate option for them.

### **Locker Room Accessibility**

All employees have the right to use the locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, can be provided with a reasonable alternative changing area such as the use of a private area, or using the locker room that corresponds to their gender identity before or after other employees.



**Discrimination / Harassment**

It is unlawful and violates the City's Harassment, Discrimination, and Retaliation Prevention Policy to discriminate in any way against an employee because of the employee's actual or perceived gender identity.

The City of West Hollywood is committed to creating a work environment of respect and support for all employees including transgender and gender non-conforming employees. Any incident of discrimination, harassment, or violence based on gender identity or expression will be given immediate and effective attention, including, but not limited to, investigating the incident, taking suitable corrective action, and providing employees and staff with appropriate resources.

**Resources****City of West Hollywood Transgender Resource Guide**

[www.tinyurl.com/transweho](http://www.tinyurl.com/transweho)

**Los Angeles LGBT Center**

Main Location: 1625 Schrader Blvd., LA, CA 90028

(323) 993-7400

[www.lalgbtcenter.org](http://www.lalgbtcenter.org)

**The Gay & Lesbian Alliance Against Defamation (GLAAD)**

[www.glaad.org/transgender](http://www.glaad.org/transgender)

**Lambda Legal**

[www.lambdalegal.org/issues/transgender-rights](http://www.lambdalegal.org/issues/transgender-rights)

**Transgender Law Center**


[www.transgenderlawcenter.org](http://www.transgenderlawcenter.org)

**National Center for Transgender Equality**

[www.transequality.org](http://www.transequality.org)

**Human Rights Campaign Foundation**

[www.hrc.org](http://www.hrc.org)

	<b>GENDER TRANSITIONING POLICY</b>	DOCUMENT NO.: <b>AD-2.8.02</b>
		REVISION: <b>B</b>
		EFFECTIVE DATE: <b>11/28/2016</b>
		PROCESS OWNER: <b>Anil Comelo</b>
		Page 1 of 6 (font size reduced for this guide to 4 pages)

Downloaded or printed copies are for reference only. Verify this is the current version prior to use. See the District website for released version.

## 1. POLICY STATEMENT

It is the policy of the District that employees and contractors shall have the right to express their gender identity before, during, and after a gender transitioning process. This includes the right to dressing full-time in the reassigned gender role prior to the transitioning process being completed, using restroom and locker room facilities based on the employee or contractor's current gender presentation, having all personnel and administrative records changed upon proper legal notification to the District, and having their transgender status remain confidential.

## 2. PURPOSE

The Gender Transitioning Policy supports the accomplishment of the District Board Governance Processes including:

GP-7.7: "We are committed to creating an inclusive work environment that reflects and supports the diversity of our community and enriches our perspectives,"

GP-11.3: "The Board will require that the organization's work environment be one in which all people are welcomed and included, and in which all individuals are unique and important and are treated with fairness and dignity," and

GP-11.4: "The Board will respect all people and seek to accommodate and learn from the different perspectives and values they contribute."

This document also addresses the District Board Executive Limitations including:

EL-8.2: "Require that the District's employees, agents, or contractors not discriminate, harass, or allow harassment against any applicant, employee, customer, or other person..."

EL-8.3: "Require employees at all levels of District employment be aware that they share in the responsibility to ensure a work environment free of discrimination and harassment prohibited by this policy."

EL-8.4: "Assure that managers or supervisors who are aware of unlawful discrimination by their staff but fail to take action are referred to Labor Relations for discipline." EL-8.5: Take positive and innovative action to provide equal opportunity."

EL-8.5.1: "Assure that persons from all segments of our community are given a fair and equal opportunity to qualify for employment and advancement within the District's work force."

Supporting a transitioning individual promotes productivity on the job and retention at the District by demonstrating a commitment to treating all employees with fairness, dignity, and respect.

## 3. SCOPE, ASSUMPTIONS & EXCEPTIONS

"Gender identity" is included in the list of characteristics that are protected under the following District policies and documents prohibiting discrimination: EL-10.1, GP 11.1, and Ad-2.8 Equal Opportunity Programs:

"All District employees shall enjoy the benefits of employment and business decisions that are free of discrimination or harassment on the basis of race, color, national origin, ancestry, religion, gender/sex, marital status, veteran status, sexual orientation, gender identity, age (over 40), medical condition (including HIV and AIDS), parental status, pregnancy, the exercise of family care leave rights, political affiliation, physical disability or mental disability."

The District not only prohibits harassment of employees by managers, supervisors or co-workers, but also prohibits harassment of or by non-employees such as volunteers, student interns, vendors, contractors or members of the general public. The District will also attempt to protect employees from harassment by non-employees in the workplace.

#### 4. ROLES & RESPONSIBILITIES

**Transitioning Employee** – If you are a transitioning individual, you have the right to openly be who you are. This means that while you will still be expected to conduct your professional responsibilities, you may express your gender identity without fear of discrimination or harassment. With this right comes the expectation that you will work with others to ensure they understand your needs and you understand that there will also be expectations of you. It is important for you to do your part to make the transition successful. Once you have decided to transition and to begin evolving your gender expression in your work environment, the first step is to inform key personnel who can work with you to assist in your transition. Contact the Employee Recruitment and Benefits Unit (ERBU), the Ethics and Equal Opportunity Programs Office (EEOP), or the LGBT/Straight Alliance for assistance in your transition process as it relates to your employment with the District.

Remember that while you are covered under the District's Non-Discrimination Policy, the District must be aware of your intent to transition in order to provide the necessary support. Contact your manager, ERBU or the EEOP Office to begin the process. Please note that the transitioning employee must advise the District's ERBU or EEOP Office of his or her transition prior to using any District restroom or locker other than that of his or her designated sex at birth. If the transitioning employee chooses to change his/her name, the transitioning employee should follow the current process for changing your name. Contact ERBU for more information.

If any physical/medical accommodations are needed, the transitioning employee must follow the current policy governing accommodations – contact the EEOP Office for more information.

**Manager** – The District supports and encourages diversity. If an employee informs you of their desire to transition or if an individual in your workplace is currently in the transition process, it is your professional responsibility to ensure that the transitioning employee is not the target of discrimination or harassment and that compliance is maintained with District policy. An employee's failure to comply with the non-discrimination policy could result in corrective action, including termination of his or her employment. You are not expected to understand all of the employee's needs, but you are expected to fully inform yourself, and provide the necessary support to enable the individual to receive the support they need in a respectful manner. Time off for medical procedures is to be treated the same as other scheduled medically necessary procedures and managers should provide sufficient flexibility to meet the individual's needs regarding medical appointments. If you have questions regarding policy or process, contact the ERBU or EEOP Office. The LGBT/Straight Alliance is available for information or guidance in order to respond appropriately to the challenges the individual may face.

**District Personnel** – It is the responsibility of all District employees to treat each other with respect and dignity as well as to uphold the District's policies. If you have questions or concerns regarding a transitioning co-worker, please contact EEOP or the LGBT/Straight Alliance for assistance. An employee's failure to comply with the non-discrimination policy could result in corrective action, including termination of his or her employment.

**Employee Benefits & Recruitment Staff [ERBU Staff]** – As with any employee seeking to legally change their name, ERBU staff is available to assist a transitioning employee with updating work-related documents requiring a legal name change, if requested. Throughout the transition process, ERBU staff is available to provide assistance if a leave of absence is needed. Upon receipt of revised social security card, ERBU staff will notify appropriate District staff to update the internal and benefits-related systems.

**Ethics & Equal Opportunity Programs Staff [EEOP Staff]** – EEOP staff is available to assist with reasonable accommodation, and any issues regarding discrimination or harassment.

#### 5. REQUIREMENTS Governance Policies

**GP-7.7** – We are committed to creating an inclusive work environment which reflects and supports the diversity of our community and enriches our perspectives.

**GP-11.1** – The Board and its members will not discriminate against any applicant, employee, customer, or other person on the basis of race, religion, color, national origin, ancestry, mental or physical disability, medical condition, marital status, gender, age, pregnancy, veteran status, sexual orientation, or gender identity.

**GP-11.3** – The Board will require that the organization's work environment be one in which all people are welcomed and included, and in which all individuals are unique and important and are treated with fairness and dignity.

**GP-11.4** – The Board will respect all people and seek to accommodate and learn from the different perspectives and values they contribute. Executive Limitations: A BAO shall

**EL-3.1** – Operate with written personnel rules which: (a) clarify rules for staff, (b) provide for effective handling of grievances, and (c) protect against wrongful conditions, such as preferential treatment for personal reasons.

**EL-3.2** – Not retaliate against any staff member.

**EL-8.1** – Provide leadership in diversity and inclusion that is open, honest, and fair. Management and employees will demonstrate the highest standards of personal integrity, honesty and conduct to inspire trust and foster collaboration with each other, customers, and the community.

**EL-8.2.** – Require that the District's employees, agents, or contractors not discriminate, harass, or allow harassment against any applicant, employee, customer, or other person on the basis of sex, race, religion, color, national origin, ancestry, religious creed, political affiliation, mental or physical disability (including HIV or AIDS), medical condition (including cancer), genetic information, marital status, parental status, gender, age (over 40), pregnancy, special disabled veteran status, Vietnam Era Veteran and all other Veteran status, sexual orientation, gender expression, gender identity, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

**EL-8.3.** – Require employees at all levels of District employment be aware that they share in the responsibility to ensure a work environment free of discrimination and harassment prohibited by this policy.

**EL-8.4.** – Assure that managers or supervisors who are aware of unlawful discrimination by their staff but fail to take action are referred to Labor Relations for discipline.

**EL-8.5.** – Take positive and innovative action to provide equal opportunity.

**EL-8.5.1** – Assure that persons from all segments of our community are given a fair and equal opportunity to qualify for employment and advancement within the District's work force.

### **Governing Laws**

California Government Code Section 12940

AB-887 Gender Identity and Gender Expression Discrimination Relevant city laws

### **Other Requirements (District Policies, MOUs, Standards, Audit, etc.)**

Q621D01 Human Resource Management Systems Framework

W621D35 – Family and Medical Leave (FMLA)/California Family Rights Act (CFRA)/Pregnancy Disability Leave (PDL)

Gender identity" is included in the list of characteristics that are protected under the following District policies and documents prohibiting discrimination:

Ad-2.8 Equal Opportunity Programs: "All District employees shall enjoy the benefits of employment and business decisions that are free of discrimination or harassment on the basis of race, color, national origin, ancestry, religion, gender/sex, marital status, veteran status, sexual orientation, gender identity, age (over 40), medical condition (including HIV and AIDS), parental status, pregnancy, the exercise of family care leave rights, political affiliation, physical disability or mental disability."

## 6. ASSOCIATED FORMS & PROCEDURES

Document Title/ID #	Document Location(s)
Medical/Family Care Leave Certification Form (FC 1750)	<a href="http://www.aqua.gov/forms/fc forms">http://www.aqua.gov/forms/fc forms</a>
Leave of Absence Form (FC 1680)	<a href="http://www.aqua.gov/forms/fc forms">http://www.aqua.gov/forms/fc forms</a>
Benefits Continuations Form (FC 1681)	<a href="http://www.aqua.gov/forms/fc forms">http://www.aqua.gov/forms/fc forms</a>
Medical Release to Return to Work Form (FC 1751)	Contact ERBU Office
Reasonable Accommodation Plan	Contact EEOP Office

## DEFINITIONS

**EEOP** – Ethics and Equal Opportunity Programs

**Cross Dressing** – To occasionally wear clothes traditionally associated with people of the other sex. Cross-dressers are usually comfortable with the sex they were assigned at birth and do not wish to change it. "Cross-dresser" should NOT be used to describe someone who has transitioned to live full-time as the other sex or who intends to do so in the future. Cross-dressing is a form of gender expression and is not necessarily tied to erotic activity. Cross-dressing is not indicative of sexual orientation.

**ERBU** – Employee Recruitment and Benefits Unit

**Gender Expression** – Gender expression refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns, and social interactions. Social or cultural norms can vary widely and some characteristics that may be accepted as masculine, feminine, or neutral in one culture may not be assessed similarly in another.

**Gender Identity** – The term "gender identity," distinct from the term "sexual orientation," refers to a person's innate, deeply felt psychological identification as male or female, which may or may not correspond to the person's body or designated gender at birth (meaning what gender was originally listed on a person's birth certificate) or the traditional, socially or culturally defined norms for gender expression.

**LGBT/Straight Alliance** – Lesbian, Gay, Bi-sexual, Transgender/Straight Alliance is an employee resource group at the District.

**Transgender** – A broad range of people who experience and/or express their gender differently from what other people expect—either in terms of expressing a gender that does not match the sex listed on their original birth certificate (i.e., designated sex at birth), or physically changing their sex. It is an umbrella term that includes people who are transsexual, cross-dressers, or otherwise gender non-conforming. Not all people who consider themselves (or who may be considered by others as) transgender will undergo a gender transition.

**Transitioning** – The term "transitioning" refers to the process through which a person modifies his or her physical characteristics and/or manner of gender expression to be consistent with his or her gender identity. This transition may include hormone therapy, sex-reassignment surgery, and/or other components and is generally conducted under medical supervision based on a set of standards developed by medical professionals. The transition process typically includes a one-year "real-life experience" in which the individual lives and presents consistently with their gender identity under medical supervision.

**Transsexual** – A transsexual person has changed, or is in the process of changing, his or her physical and/or legal sex to conform to his or her internal sense of gender identity. The term can also be used to describe people who, without undergoing medical treatment, identify and live their lives full-time as a member of the gender opposite their birth sex.

## 8. CHANGE HISTORY

Date	Revision	Comments
1/23/2013	A	New Policy Adopted.



# WORKPLACE GENDER TRANSITION PROTOCOLS

a guide for ensuring inclusion

FOR MANAGERS, SUPERVISORS, AND EMPLOYEES

Version date March 18, 2015

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CITY OF SANTA ROSA WORKPLACE GENDER TRANSITION PROTOCOLS

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## Purpose

The protocols in this guide are designed to support an inclusive and productive workplace environment for all employees. Specifically, this document addresses the needs of transgender and gender non-conforming employees (see “Definitions” on page 2) and provides guidance to supervisors and managers on how to protect the legal rights and safety of such employees.

The protocols do not anticipate every situation that might occur. The needs of transgender and gender non-conforming employees must be assessed on a case-by-case basis. The goal is to ensure the well-being of these employees within their professional workplace and to ensure that all employees are treated fairly regardless of their orientation or gender identity. This includes promoting adherence to the City’s Basic Principles, maximizing workplace integration, and minimizing stigmatization. As such, the protocols are designed to help supervisors and managers maintain a respectful and non-discriminatory work environment for all of their staff.

## Introduction

These protocols will guide supervisors and managers so they can assist employees who are undertaking (or considering) a workplace gender transition. This document also provides information and support for these employees. Coworkers may find this document helpful as well.

A lack of knowledge about gender transition and transgender issues has the potential for creating misunderstanding and tension within the workplace. The likelihood of negative reactions can be reduced by establishing a culture of appreciation of differences, providing adequate training, and treating all employees fairly. The City of Santa Rosa does not discriminate in any way on the basis of sex, sexual orientation, gender identity, or gender expression. Employees of all genders are welcome. The City’s Basic Principles support the protocols outlined in this document.

Workplace diversity is an organizational strength and adds to an organization’s resiliency. A diverse workplace means that our employees must be able to work with all kinds of people. It is not required that City employees “believe in” or accept an individual’s right to be transgender or undergo a gender transition. Employees are entitled to their beliefs, but we are all required to treat the transitioning employee, and every other employee, with equity and respect.

If an employee expresses their intention to transition, the assistance of the department and supervisor is critical. The supervisor’s actions will impact the outcome of the workplace transition. Be aware that the employee’s decision is likely to have been carefully considered over months, if not many years. By the time an employee approaches their supervisor, he or she has likely to have already gone through a long process of informing family and close friends. It is not a sudden, rash, overnight decision. It is, rather, a life event on a par with becoming a parent or getting married.

If you are transgender and/or are undergoing (or considering) a gender transition, you have the right to openly be who you are at work. This means that, while maintaining professional expectations, you may express your gender identity, characteristics, or expression without fear of negative consequences. These protocols are designed to help ensure that the workplace has tools to make sure that your gender transition is successful and understood by your fellow employees and supervisors.



## Definitions

The definitions provided here are not intended to label employees but rather to assist in understanding these protocols. Employees may or may not use these terms to describe themselves.

- **Gender expression:** An individual's characteristics and behaviors (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine or feminine.
- **Gender identity:** A person's internal, deeply-felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth. Everyone has a gender identity.
- **Gender non-conforming:** Can be used to describe having, or being perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Keep in mind that social expectations for gender vary across cultures and have changed significantly over time.
- **LGBTQ:** A common abbreviation that refers to lesbian, gay, bisexual, transgender, and queer communities.
- **Sexual orientation:** A person's physical or emotional attraction to people of the same and/or other gender. Straight, gay, bisexual, and queer are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be gay, lesbian, bisexual, straight, or queer just like non-transgender people.
- **Transgender:** Having a gender identity and/or gender expression that is different from the sex assigned at birth. This can manifest in various ways:
  - When the sex assigned at birth is male but the individual identifies as female (sometimes referred to as a transgender woman or a male-to-female (MTF) transgender person)
  - When the sex assigned at birth is female but the individual identifies as male (sometimes referred to as a transgender man or a female-to-male (FTM) transgender person)
  - When a person's gender identity is both (male and female), neither, or something else (sometimes referred to as genderqueer, third gender, gender fluid, or as having a non-binary gender identity).

*NOTE: Some people described by this definition don't consider or label themselves transgender. They may use other words, or may identify simply as a man or woman or as both or neither. Regardless, the protocols in this document apply.*

- **Transition:** The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many different ways to transition. A transition can be social, legal, and/or medical.
  - For some people, the gender transition takes place over a long period of time. For others it is a one- or two-step process that happens more quickly.
  - Transition may include "coming out" (telling family, friends, and coworkers), changing the name and/or sex on legal documents, and/or accessing medical treatment such as hormones and/or surgery.

## Overview – For Supervisors and Managers

Employees who transition their gender on the job will need the assistance of their supervisor, managers, and the department's Administrative Services Officer or representative (referred to as "ASO" in this document). Each individual will have a unique set of factors which will require a customized approach. Use the Workplace Transition Plan (pages 10-16) and checklist (Appendix A) to prepare for the workplace transition. Be sure to consider the following:

- Who will help the transitioning employee plan and manage their workplace transition?
- What can a transitioning employee expect from their supervisor and managers?
- What is expected of other staff (team members, coworkers, etc.)?
- Who will take the lead on ensuring personnel and administrative records are updated?

Due to existing stereotypes both in the workplace and society in general, many transgender individuals face difficult situations and interactions in their personal, professional, family, and financial lives simultaneously. This can lead to high stress levels, particularly when individuals are in the initial stages of transitioning.

In addition, the employee would like to feel confident that the individuals who will help plan their workplace gender transition will take steps to inform themselves about transgender issues. If you are unfamiliar or uncomfortable with workplace gender transitions, learn more (see "Resources" on page 19). You can also access the coaching available to you through the Employee Assistance Program (EAP). You can check with the City's Inclusion Council to see whether any City employees who have previously undertaken a workplace gender transition might be available to coach you as well. Also, work with the transitioning employee to learn about their individual transition timeline, concerns, and needs.

Keep the following in mind when talking with a transitioning employee:

- The transitioning employee may choose you – their supervisor, someone up the management chain in their department, the ASO, or an HR representative – as their first point of contact.
- It is crucial that you make it clear that the conversation will be held in confidence. This is key to ensuring the employee's rights are protected. Maintaining confidentiality will also help you avoid inadvertent violations of the employee's right to medical privacy.
- Obtain permission from the employee prior to discussing the transition with (or seeking further assistance from) anyone, including other staff, your own supervisor, other managers, the department's ASO, and Human Resources (HR).
- Listen carefully to what the individual is telling you about how they want the workplace transition to proceed.

- Become more informed (see “Resources” on page 19). Let the employee know that you are taking steps to educate yourself about how you can assist their workplace gender transition. Also let the employee know that you welcome their input as well.
- Use a sensitive approach and demonstrate support for an inclusive workplace when discussing their needs and concerns.
- Remind them about the additional resources available to them (such as EAP).
- Explain any questions and concerns you might have and ask for their input.
- Do not ask the employee about their medical decisions. Medical information is private and protected by law. If the employee needs time off for medical care or recovery, follow the same steps used for any request for time off for medical reasons.
- Make sure the employee is aware of these protocols. Ask for their opinion on matters covered in this document.

## Overview – For Transitioning Employees

As a valued employee, these protocols are provided to help ensure your well-being and to provide assistance during your workplace transition. You have probably been considering this stage of your life for some time. You may have done a lot of research, talked with people you trust, and perhaps connected with support groups locally or online. At this point, you may feel nervous – but more than ready – to get on with your workplace gender transition.

The City supports you and wants your transition to be as smooth as possible and your rights to be protected. As you start on this process, it may help to keep the following in mind:

- You may feel very vulnerable right now and may be worrying about how your supervisor and coworkers will react. It might help to know that other City employees have successfully transitioned at work, and you can too!
- Be sure to read about how you can prepare ahead of time for your workplace transition (“How Transitioning Employees Can Prepare” on pages 16-18). It will help you think things through and prepare to talk with your supervisor and ASO.
- Things might not always proceed as smoothly as you would like, but planning ahead and working with a team will help pave the way to a successful workplace transition. It is important to keep your supervisor advised of any challenges or issues that may arise.
- You get to decide who to approach first to begin discussing the needed workplace preparations for your gender transition. It could be your supervisor, a manager up the chain in your department, the

- You get to decide who to approach first to begin discussing the needed workplace preparations for your gender transition. It could be your supervisor, a manager up the chain in your department, the department ASO, or an HR representative. It's your choice.
- Keep in mind that some aspects of your workplace transition will take longer than others. Estimate a reasonable timeline (at least six weeks) so that everything can be ready on the first day of your workplace transition.
- Remember that very few supervisors, managers, and ASOs have experience with or knowledge about workplace gender transitions. This does not mean you have to train them, but you can help by making sure they know about these protocols and by referring them to any other resources you believe will be helpful.
- You have a right to privacy ... and at the same time, a number of people in the organization will need advance knowledge of your transition (with your consent) to ensure changes can be made (like updating your email address and name badge). Work with your supervisor to determine how and when others will be told.
- You do not need to discuss your medical decisions. Medical information is private and protected by law. If you need time off for transition related medical care or recovery, follow the same steps used for any request for time off for medical reasons. If a doctor's note is needed, the note should explain the workplace implications (e.g. amount of time off needed and any work restrictions upon returning to the job), but it should not list the diagnosis or treatment. Work with your doctor to ensure your privacy.

## Initial Conversations

Anytime we anticipate sharing plans of change, there can be a great deal of apprehension surrounding how others may react. It can be quite stressful and frightening for an employee to share their intention to transition their gender at work. They may feel vulnerable discussing their plans with a person upon whom their job depends.

When an employee contacts their supervisor, ASO, a manager up the chain in their department, or HR to explain they are planning to transition and want to start presenting in accordance with their gender identity, this contact person should assure the employee that they will work with them to help make the workplace transition as smooth as possible. It is often with great anxiety that the individual has come to this point. They have likely heard stories about individuals who were treated badly in their workplaces, so receiving this type of assurance is important.

In addition the contact person should assure the employee that the information they share will be treated with utmost confidentiality. The employee has probably taken great care to safeguard their status and wants to be sure this information will be disclosed at an appropriate time and in a respectful manner. It is important to let them know that their supervisor will work closely with them on how and when to inform coworkers, managers, the department's ASO, and HR about the workplace gender transition.

The transitioning employee should be assured that they will have input into planning the steps of their transition at work. The employee will have the main voice in determining the timing of beginning to work in their new gender role. If any changes in workplace routine need to occur, the employee will coordinate these changes with their supervisor to ensure the employee is able to perform the essential functions of their job.

## Confidentiality

The transgender status of an individual is confidential and should only be disclosed on a need-to-know basis and only with the consent of the individual. Information about an employee's transgender status (such as the sex they were assigned at birth) can constitute confidential medical information under privacy laws like HIPAA. Supervisors, managers, ASOs, HR, and coworkers should not disclose information that may reveal an employee's transgender status or gender non-conforming presentation to anyone without consent from the individual.

Only the transgender employee has the right to discuss their gender identity or expression openly. Or they may choose to keep that information private.

## Names/Pronouns

An employee has the right to be addressed by the name and pronoun that correspond to their gender identity.

City employees are not required to "believe in," approve of, or accept an individual's right to be transgender or undergo a gender transition. However, they must respectfully use the transitioning employee's new name and pronouns.

A legal name or gender change is not required to update the employee's name and gender in many aspects of the workplace. The supervisor should work with the employee, administrative staff, IT, HR, and the department's ASO to ensure information is updated by the first day of an employee's workplace transition, particularly in the areas listed below. Typically, up to six weeks' notice will be needed to complete these steps.

- The employee's work station name plate, name tag, and access/identification card should reflect their new name.
- Organization charts, team rosters, City webpage listings, and phone directories should reflect their new name.
- The employee's email address should reflect their new name.
- Photographs on their access/identification card and photographs on display in the workplace should portray the individual according to their gender identity.

Some City records must match the employee's legal name and cannot be altered until a legal name change has been achieved. See "Official Records" below for more information.

Some employees are legally required to have a current and valid professional license to function in their role. At some point, their legal name may change and no longer match the name on their license. The employee must sign reports, plans, etc. with the name on the license until their license has been updated to reflect their new name by the applicable licensing body.

## Official Records

Certain types of records, like those relating to payroll, insurance, and retirement accounts, require a legal name change before the person's name can be changed. When any employee changes their legal name for any reason, they should notify HR. After the employee provides HR with official notification of a legal name change, HR will update personnel and administrative records accordingly. Documentation is not required to update the employee's name and gender in many other aspects of the workplace. See "Names/Pronouns" above for more information.

## Sex-Segregated Job Assignments

For sex-segregated jobs, transgender employees will be classified and assigned in a manner consistent with their gender identity, not their sex assigned at birth.

## Restroom Accessibility

Employees shall have access to the restroom corresponding to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single-user restroom when available. For example, if any employee does not want to share a multi-person restroom with a transgender coworker, they can make use of this kind of option, if available. No employee, however, shall be required to use such a restroom. All employees have a right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the employee's gender identity, regardless of the employee's sex assigned at birth. That is, transgender women must be permitted to use the women's restroom, and transgender men must be permitted to use the men's restroom. Ultimately, however, that decision should be left to the transgender employee to determine the most appropriate and safest option.

## Locker Room Accessibility

All employees have the right to use the locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, can be provided with a reasonable alternative changing area such as the use of a private area, or using the locker room that corresponds to their gender identity before or after other employees. Any alternative arrangement for a transgender employee will be provided in a way that allows the employee to keep their transgender status confidential. Ultimately, the decision should be left to the transgender employee to determine the most appropriate and safest option.

## Dress Codes

Transgender and gender non-conforming employees have the right to comply with dress codes and professional appearance standards in a manner consistent with their gender identity or gender expression. For clarification, please note that the following do not constitute reasons to deny a transitioning individual the right to dress according to their gender identity:

- Working with the public, vendors, and/or outside agencies
- Coworker, supervisor, and/or manager preferences or comfort level
- Public, vendor, and/or outside agency preferences or comfort level

## Discrimination/Harassment

It is unlawful and violates City policy to discriminate in any way (including, but not limited to, failure to hire, failure to promote, or unlawful termination) against an employee because of the employee's actual or perceived gender identity. Additionally it also is unlawful and contrary to these protocols to retaliate against any person objecting to, or supporting enforcement of legal protections against, gender identity discrimination in employment.

The City is committed to creating a discrimination-free work environment for its employees. Any incident of discrimination, harassment, or violence based on gender identity or expression will be given immediate and effective attention, including, but not limited to, investigating the incident, taking appropriate corrective action, and providing staff with appropriate resources.

Some examples of violations a supervisor would need to address include:

- Denying an employee access to locker rooms and/or restrooms that correspond to their gender identity.
- Prohibiting an employee from dressing according to their gender identity.
- Refusing to respect an employee's gender identity.

- For example, intentionally and/or persistently referring to an employee by a name or pronouns that do not correspond to the employee's gender identity can constitute harassment. Initially, some infrequent and unintentional references to the former identity will likely occur (especially in the first month or two of the transition process) simply due to habit and human error. However, everyone must adjust to using the new name and pronouns as soon as possible.

## Health Insurance Benefits

HR maintains a "Health Plan Comparison" chart listing all of the current benefits of each health care plan, including which plan(s) cover transgender services. This is available on the City's internal website (see below). If this link is broken, HR can provide a new link or the document itself. There is no need to indicate why the Health Plan Comparison chart is being requested. <http://cityweb.srcity.org/departments/hr/Forms/Current%20Health%20Plan%20Comparison%20Sheet.pdf>.

A description of the covered transgender health care services can be found in the "benefits summary" of the relevant plan(s). The plan summaries are available on the City's internal website (search for "benefits summary" for each relevant provider), or HR can provide updated links and/or the documents. When asking HR for help accessing the benefit summaries, there is no need to indicate why they are being requested.

## Workplace Transition Plan

This section addresses many of the processes that may occur during an employee's gender transition. The Workplace Transition Plan should be modified with input from the supervisor and the transitioning employee to meet the needs of the organization and the employee. Also see Appendix A for a helpful Transition Plan Checklist.

### BEFORE THE WORKPLACE TRANSITION BEGINS

1. The transitioning employee should meet with their selected first point of contact to begin discussing the needed workplace preparations for their transition. The employee might choose their supervisor, someone up the management chain in their department, the ASO, or an HR representative as their first point of contact.
2. At that initial meeting or a subsequent meeting, the employee and first point of contact should discuss forming a transition team and setting a timeline for the workplace transition.
  - a. The transition team will include all of the individuals who will play a role in implementing the employee's workplace transition. At a minimum, the transition team should include the employee, the first point of contact, the employee's supervisor, and the department's ASO. In addition the employee may decide to include someone from HR and/or a trusted ally (from within the organization or outside of the workplace). All members of transition team should familiarize



themselves with the protocols and resources in this document and any other relevant resources that provide educational information about transgender issues in order to ensure a safe, productive work environment.

- b. The timeline should address when each person in the transition team needs to become involved in the employee's transition process, as it is likely not all individuals of the transition team need to be brought on board at once.

The timeframe should recognize that some stages of the workplace transition process will require more lead time than others. The timeline needs to be realistic (likely at least six weeks) to ensure everything is ready on the first day of the workplace transition. Work with the ASO to develop a sufficient timeline.

3. If the transitioning employee's supervisor was not the first point of contact, a meeting between the transitioning employee and the employee's supervisor (and other transition team members, if desired by the transitioning employee) should be scheduled to ensure the supervisor knows of the employee's planned transition. Note: With the transitioning employee's consent, managers beyond the supervisor will also need to be made aware of the employee's planned transition so that leaders can express their support for an inclusive workplace when the employee's transition is made known to the employee's work team. The supervisor should work with the transitioning employee to determine how and when to inform the management chain in their department.
4. If the first point of contact is not the department's ASO, then the transitioning employee should meet with the ASO (and other members of the transition team, if desired by the transitioning employee) to ensure the ASO knows of the employee's planned transition. The ASO will also be instrumental in helping to develop a sufficient timeline to allow preparations to be made for the first day of the workplace transit.
5. The supervisor and employee (and other members of the transition team, if desired by the transitioning employee) should work together to write the Workplace Transition Plan. They should make sure it addresses all of the following areas:
  - a) The date when the workplace transition will officially and formally occur. This means the date that the employee will change their gender expression, name, and pronouns. This date should provide enough time (likely at least six weeks) for updating the employee's email address, name plate, organization charts, etc. (see "Names/Pronouns" and "Official Records" on page 7). The transitioning employee may choose to begin using the restroom and locker room associated with their gender identity on this date as well. The transitioning employee will know best when the transition date should occur as they will be able to determine all relevant factors to be considered when choosing this date.

- b) Decide how, when, and in what format other managers will be made aware.
- c) Decide how, when, and in what format the transitioning employee's coworkers will be made aware of the employee's transition. It is up to the transitioning employee to decide if they would like to make some coworkers aware of their transition on a one-on-one basis before it is officially announced. The transitioning employee will also decide whether the official announcement should be made in writing or verbally and who will make the announcement. The employee will decide if and how they will participate in making the announcement. See "The Day the Transition Will Be Made Known to the Work Team" (page 12) when planning the announcement.
- d) Decide what, if any, voluntary training will be offered to coworkers and make arrangements for the training as needed.
- e) Determine where workplace references to the employee's name and photographs need to be updated and when they will be made (See "Names/Pronouns" and "Official Records" on page 7). Provide sufficient notice (about six weeks) and work closely with administrative staff, the ASO, HR, IT, and others as needed to ensure that updates are made by the first day of the employee's workplace transition.
- f) Schedule dates of any leave that may be needed for pre-scheduled medical procedures. (There is no need to discuss which procedures or what they entail.)
- g) Discuss how the employee would like to handle name and pronoun mistakes that may occur in the first few months. Discuss how the supervisor will address persistent and/or intentional misuse of names and pronouns that may occur.

### **THE DAY THE TRANSITION WILL BE MADE KNOWN TO THE WORK TEAM**

1. If the transitioning employee has decided the announcement will be made in a meeting:
  - a. Include the transitioning employee (if they wish to be present), the employee's supervisor, management up the chain in their department, the employee's coworkers, and any other team members or leaders if they are able to attend in person. Arrange for remote conferencing for any members of the transition team or the employee's work team that cannot be there in person. The employee will decide whether (or not) to attend all or part of the meeting.
  - b. If the employee thinks it would be helpful, a handout about transgender issues can be provided at this meeting. See Appendix B for a recommended handout.
  - c. The supervisor of the employee's work team should announce the transition, along with any other high level managers who are there to demonstrate that they support an inclusive workplace.

- d. The speaking supervisor must cover the following information in the meeting:
  - i. Clarify that the following announcement is confidential. The information should only be disclosed to others on a need-to-know basis and only with the consent of the individual concerned.
  - ii. Explain that the employee formerly known as \_\_\_\_\_ (old name) will be \_\_\_\_\_ (new name) and will be referred to using \_\_\_\_\_ (male/female) pronouns as of \_\_\_\_\_ (workplace transition date).
  - iii. Emphasize the transitioning employee's importance at the City and management's complete support of an inclusive workplace.
  - iv. Review the City's Basic Principles and relevant nondiscrimination policies and indicate that all employees are invited to review the Workplace Gender Transition Protocols.
  - v. Indicate that the transitioning employee will be presenting themselves in accordance with their gender identity. Indicate the expectation that everyone will behave respectfully and use the new name and pronouns as of \_\_\_\_\_ (date), regardless of any personal views they may hold.
  - vi. Make a point that continued professionalism within the workplace is expected, that the transition will not change expectations of appropriate workplace behavior, and that work should go on as it did previously.
  - vii. Solicit any questions. Refer questions the supervisor cannot answer to department ASO or HR.
  - viii. Explain that \_\_\_\_\_ (new name) would prefer not to discuss the details of their transition at work or with people outside of their closest circle of friends and family. Indicate that everyone is welcome to direct any further questions to the supervisor, the ASO, and/or HR.
  - ix. If voluntary training is going to be offered, the date should be announced at this meeting. If possible, the training should occur before the date of the employee's workplace transition.
- e. Be a behavioral model by using the transitioning employee's new name and pronouns during the announcement and in all communication (written and oral, formal and informal) after the first day of the employee's workplace transition.

2. If the employee has decided they wish the announcement to be made in writing:
  - a. Work with the employee to craft a written communication (see d. below for details) for distribution to the employee's coworkers and any other team members, managers up the chain in their department, or professional peers selected by the employee. Determine whether the announcement will be distributed by email or as hard copies in sealed envelopes.
  - b. If the employee thinks it would be helpful, a handout about transgender issues can be included. See Appendix B for a recommended handout.
  - c. The supervisor of the employee's work team should sign the letter, unless the employee prefers to sign it or have it signed by someone further up the management chain in their department.
  - d. The communication must explain:
    - i. Clarify that the following announcement is confidential. The information should only be disclosed to others on a need-to-know basis and only with the consent of the individual concerned.
    - ii. Explain that the employee formerly known as \_\_\_\_\_ (old name) will be \_\_\_\_\_ (new name) and will be referred to using \_\_\_\_\_ (male/female) pronouns as of \_\_\_\_\_ (workplace transition date).
    - iii. Emphasize the transitioning employee's importance at the City and management's complete support of an inclusive workplace.
    - iv. Review the City's Basic Principles and relevant nondiscrimination policies and indicate that all employees are invited to review the Workplace Gender Transition Protocols.
    - v. Indicate that the transitioning employee will be presenting themselves in accordance with their gender identity. Indicate the expectation that everyone will behave respectfully and use the new name and pronouns as of \_\_\_\_\_ (date), regardless of any personal views they may hold.
    - vi. Make a point that continued professionalism within the workplace is expected, that the transition will not change expectations of appropriate workplace behavior, and that work should go on as it did previously.
    - vii. Explain that \_\_\_\_\_ (new name) would prefer not to discuss the details of their transition at work or with people outside of their closest circle of friends and family. Indicate that everyone is welcome to direct their questions to the supervisor, the ASO, and/or a representative from HR. If the transitioning employee wishes, the letter can include the items listed in the "Resources" section on page 17.

- viii. If voluntary training is going to occur, indicate the date. If possible, the training should occur before the date of the employee's workplace transition.
- e. Be a behavioral model by using the transitioning employee's new name and pronouns in the announcement and in all communication (written and oral, formal and informal) after the first day of the employee's workplace transition.

### **THE FIRST DAY OF THE EMPLOYEE'S WORKPLACE TRANSITION**

With an adequate timeline (about six weeks), the employee's supervisor will work with administrative staff, the department ASO, HR, IT and others as needed to ensure that all elements (particularly those listed below) are in place by the first day of the employee's workplace transition.

- The employee's work station name plate, name tag, and access/identification card should reflect their new name.
- Organization charts, team rosters, City webpage listings, and phone directories should reflect their new name.
- The employee's email address should reflect their new name.
- Photographs on their access/identification card and photographs on display in the workplace should portray the individual according to their gender identity.
- If the employee has provided documentation of a legal name change, their official records should be updated (payroll, insurance, retirement, etc.) as well.

## **How Transitioning Employees Can Prepare**

This section focuses on helping you, the transitioning employee, prepare for your workplace gender transition.

1. You can contact the coordinator of the City's "Inclusion Council" (ask Human Resources for a referral) to see if they are aware of any employees who have transitioned in the workplace who might be willing to be a sounding board and offer support and advice.
2. You are encouraged to write out how you'd like your workplace transition to proceed. Things might not always proceed as smoothly as you would like, but planning ahead and working with a team will help pave the way to a successful workplace transition.
  - a. Timeline – When do you want to begin working openly in your true gender? As you consider this, keep in mind that your supervisor will need to work with administrative staff, the department ASO, HR, IT and others to make sure everything is ready on the first day of your workplace transition. Some processes will require more time than others. To be on the safe side, you should assume that the timeline will need to be at least six weeks long.

- b. First point of contact – Who would you like to talk with first about preparing the workplace for your transition? You can choose your supervisor, someone up the management chain in your department, the department ASO, or an HR representative – whomever you feel most comfortable starting the process.
- c. Transition Team – Who will be on your transition team? Include the individuals who will play a role in helping you achieve a workplace transition. At a minimum, your transition team should include you, your first point of contact, your supervisor, and the department's ASO. You may wish to include a representative from HR. You can also include a trusted ally (from within the organization or from outside the workplace). All members of the transition team should familiarize themselves with these protocols and other relevant educational information about transgender issues.
- d. Coming out – When do you want to start telling people about your workplace gender transition? Do you want to start by talking with a few trusted coworkers one-on-one in confidence? When will you tell your supervisor? When will you talk with your department's ASO? When and how do you want your supervisor to inform other managers up the chain of command in your department? When and how do you want your immediate work team to be informed? How about other coworkers or professional peers in outside agencies?
- e. Official announcement – How do you want your workplace transition to be made known to your work group and/or department? Do you want it shared by email or in a printed letter from you or your supervisor or another manager further up the chain of command? (Keep in mind, emailing your announcement could result in it existing online for a long time; additionally, it potentially could be forwarded beyond your intended audience). Would you rather your supervisor tell people in a meeting? If so, do you want to be present? Do you want to be there in the beginning and leave after the announcement? Would you prefer not to attend?
- f. Time off for treatment – Will you need time off for transition related medical treatment? How much time? Have you accrued enough sick time and/or vacation time? Keep in mind that you do not need to explain any treatments, but you will need to work with your supervisor to schedule medical time off.
- g. Training – Do you feel that voluntary training for employees on transgender issues in the workplace would help ensure your transition is successful? Would you want to attend the training?
- h. Name/pronoun adjustment – How would you like to handle occasional name and pronoun mistakes that may occur (especially in the first few months)? If someone unintentionally but persistently uses your former name or pronouns, how would you like this dealt with? If someone appears to intentionally misuse names and pronouns, how would you like your supervisor to address this?

- i. Other considerations – What worries you the most at this point? Who might be able to help? Also, where might your previous identity show up later when you least expect it? Do a search for your old name on the City’s intranet site and other programs. Look for team rosters, organization charts, and old photos. Keep a list of these items so you can ask later about whether they can be changed.
3. When you are ready, talk with your supervisor about your intent to transition. This should be in a face–to–face meeting. Explain that it is a confidential discussion. If you would be more comfortable, you can bring someone with you – a coworker, a manager, or an ally from outside the organization that that you trust. Your supervisor can be an ally and should be part of the planning process for a successful transition.
4. When you are ready, talk with your department’s ASO about your intent to transition. This should be in a face–to–face meeting. Explain that it is a confidential discussion. If you would be more comfortable, you can bring someone with you – a coworker, a manager, or an ally from outside the organization that you trust. Your ASO can be an ally and should be part of the planning process for a successful transition.
5. Maintaining confidentiality will be a primary concern. However, with your consent your supervisor will need to share your plans up the management chain in your department so that leaders can express their support of an inclusive workplace when your transition is made known to your work team. Be prepared to discuss with your supervisor who will be told and how and when they’ll be informed.
6. Work with your supervisor or first point of contact to begin planning your transition:
  - a. Identify the members of your Transition Team.
  - b. Establish a time line for the transition, including dates for informing your ASO, the management chain in your department, and HR. Set the date for the official announcement to your co–workers and the first day of your workplace transition (usually several weeks apart). Remember that your supervisor will likely need at least six weeks to ensure everything is updated. Before finalizing the timeline, work with your ASO to ensure you have allowed enough time for everything to be ready by the first day of your workplace transition.
  - c. Plan the announcement (meeting or written communication).
  - d. Discuss whether voluntary training will be offered. If it is, set a date prior to the first day of your workplace transition.
  - e. Plan for the first day of your workplace gender transition.
  - f. Discuss how you want name/pronoun slips (or misuse) to be addressed.

## Resources

### Books

- *Transgender Explained For Those Who Are Not* by Joanne Herman
- *Transgender 101: A Simple Guide to a Complex Issue* by Nicholas Teich

### Websites

- "Terminology," National Center for Transgender Equality, <http://tinyurl.com/qdhk65l>
- "Trans 101," Sylvia Rivera Law Project, <http://srlp.org/resources/trans-101>

### Online Videos

- "Transgender Basics," Gender ID Project, [www.youtube.com/watch?v=UXI9w0PbBXY](http://www.youtube.com/watch?v=UXI9w0PbBXY)
- "Transgender Works: Creating a Transgender-Inclusive Workplace," Northwestern University, <http://tinyurl.com/pxl8t43>



## • Appendix A: Transition Plan Check List

- ☐ Meet with the first point of contact \_\_\_\_\_
- ☐ Identify the Transition Team and meet with each person

- 
- ☐ Develop the timeline

Event	Date
Meet with supervisor	
Meet with ASO	
Inform/meet with HR	
Inform management chain in employee's department	
Schedule medical leave	
Arrange for voluntary training as needed	
Make official announcement	
Hold voluntary training as needed	
Complete updates to name/photos in workplace	
First day of workplace transition (usually a few weeks after official announcement)	
Other steps?	

- ☐ Plan/prepare the official announcement (see pages 12-15 for details)
- ☐ Determine if voluntary training will be provided and identify trainer (internal or external?)
- ☐ Update name/photos in workplace (particularly in these areas)
  - ☐ Name tag                      ☐ Work station name plate
  - ☐ Uniform                        ☐ Access/identification card
  - ☐ Email address                ☐ Organization charts
  - ☐ Team rosters                 ☐ Photographs on display
  - ☐ Phone directory             ☐ Other (e.g. search City web pages and software programs)
- ☐ Discuss how name/pronoun mistakes will be addressed
  - ☐ Occasional slips
  - ☐ Persistent misuse
  - ☐ Intentional misuse

## Appendix B: Sample Handout



Gender Advocacy  
Training & Education

### Working with Transgender Employees

Working with someone who is undergoing a gender transition is easier than you might have imagined. With common sense and everyday manners, everyone can help to maintain a productive and inclusive work environment.

### What's in a name?

Treat the transitioning employee with the same professionalism, fairness, respect, and equity that you treat other employees. This includes using their new name and pronoun. If Mark is now Marla, address her as you would any other woman in the office. If Debbie is now Don, treat him as you would any other man in the office. You may feel awkward at first, but it gets easier with time. If you accidentally use an old name or pronoun, simply correct your terminology and carry on with the conversation. Pretty soon you'll develop new habits and rarely make a mistake.

### Where can you get more information?

You may have a lot of questions about what it means to be transgender, about the process of undergoing a gender transition, and about the impacts that transitioning might have on an individual's personal life. However, you should limit your questions to work-related topics. As you can imagine, most transgender people would prefer not to discuss these things except with close friends and family members. (If you're a close friend of the transitioning employee, and if that individual has opened the door to personal questions, you can discuss their experience in more depth in privacy.) Fortunately, there is plenty of good information online. Here are some sites that might be helpful. You can find more by googling "Transgender 101."

- "Terminology," National Center for Transgender Equality, <http://tinyurl.com/qdhk65l>
- "Trans 101," Sylvia Rivera Law Project, <http://srlp.org/resources/trans-101>
- "Transgender Basics," Gender ID Project [www.youtube.com/watch?v=UXI9w0PbBXY](http://www.youtube.com/watch?v=UXI9w0PbBXY)
- Also see the City of Santa Rosa's "Workplace Gender Transition Protocols"

### Protect privacy.

Above all, do not "out" the employee to (discuss their gender transition with) anyone who does not know about it already. A gender transition is a private matter (and is considered protected medical information) and is not appropriate to share with others. Your transitioning coworker had to make it known at work to help others understand why their name and appearance are changing, but this does not mean the information is public knowledge. In fact, revealing their status can put them in very real personal danger. The best approach is to protect their privacy, just as you would for any employee who is undergoing a deeply personal life change.

## MYTHS AND FACTS

**Myth:** Transgender people are actually just gay.

**Fact:** Transgender people fall into the same array of sexual orientations as Cisgender (or non-transgender) people do (e.g., straight, gay, lesbian, bisexual, queer, pansexual, among others).

**Myth:** Transgender people do not know who they are; they are confused and it is a phase.

**Fact:** Transgender people have an understanding of their own internal gender identity from a very young age, just as Cisgender people do, and the frequency of transitional regret is negligible.

**Myth:** Transgender people have a mental disorder.

**Fact:** The new edition of the Diagnostic and Statistical Manual (DSM – 5) reclassifies a transgender person with having Gender Dysphoria. The reclassification asserts that because of society's lack of understanding and acceptance of people with Gender Dysphoria, certain distress is often acquired, such as depression anxiety, and ideation. Removing and replacing "disorder" with "dysphoria" removes any connotation that a person has a "mental disorder."

**Myth:** Transgender people are not real men or women.

**Fact:** Manhood or womanhood is not determined by anatomy. For example, a woman who undergoes a mastectomy is still a woman, or a man who has to have surgery for testicular cancer is still a man.

**Myth:** All transgender people need a gender affirming medical intervention.

**Fact:** Some transgender people will not seek a gender affirming medical intervention due to various reasons like cost, accessibility, and personal reasons. The decision to have any gender affirming procedures is a decision best left to each individual transgender person.

**Myth:** Transgender people are predators and will harass people in the restroom.

**Fact:** There is no evidence that reflects transgender people as being natural predators. You have likely, safely and unknowingly shared a bathroom with a transgender person in your lifetime.

# TRANSGENDER IN THE WORKPLACE

A GUIDE FOR MUNICIPALITIES

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