

# Transgender Inclusion in the Workplace: A Toolkit for Employers



- 1**  
Business Case
- 2**  
Gender Audit
- 3**  
Best Practices
- 4**  
Transition Guidelines
- 5**  
Health Care
- 6**  
Business Culture
- 7**  
Everyday Realities
- 8**  
For Allies

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1

Business Case

2

Gender Audit

3

Best Practices

4

Transition Guidelines

5

Health Care

6

Business Culture

7

Everyday Realities

8

For Allies



By clicking on the top left tab on any page in this toolkit, you will be returned to the contents page.

## Section 1

### 5 Transgender Inclusion & the Business Case

- 9 Trends in Transgender Inclusion: A Rising Tide for Transgender Inclusion
- 9 Trend Toward Inclusive Workplaces
- 10 Trend Toward Legal Protections
- 17 Trend Toward Increasing Visibility and Cultural Awareness

## Section 2

### 20 Evaluate Your Workplace: Take the Gender Review

- 21 Gender Identity and Gender Expression Workplace Review Form

## Section 3

### 29 Navigating Gender Inclusion in Gendered Spaces: Best Practices

- 29 Non-Discrimination Policy
- 30 Administrative and Record-Keeping
- 31 Access to Facilities
- 32 Sample Restroom Policy
- 33 Responding to Employee Concerns Regarding Restrooms or Locker Rooms
- 34 Self-Identification
- 35 Dress Codes
- 35 Privacy

## Section 4

### 37 Proactive Planning: Gender Transition Guidelines

- 39 Template for Gender Transition Guidelines

## Section 5

### 54 Holistic Inclusion: The Importance of Transgender Inclusive Health Care Coverage

- 56 Section 1557 of the Affordable Care Act: What Employers Need to Know

## Section 6

### 60 Addressing Culture: Training & Education

- 62 Building Robust Training & Education Platforms

## Section 7

### 63 Everyday Realities of Transgender Inclusion: Concepts in Practice

- 64 The Job Fair
- 66 At the Printer and Around the Office
- 68 He, She, They?
- 69 The "T" in your LGBTQ Employee Resource Group
- 70 Barriers in Benefit Access
- 72 Everyday Paperwork And Forms
- 73 Breaking the Binary: Genderqueer in the Workplace
- 74 Clever Marketing or Anti-Trans Punchline?
- 76 Frozen Out
- 78 Key Factors Driving Success of Transgender-Inclusion Efforts

## Section 8

### 80 Especially for Allies

- 81 Assessing your Starting Point
- 82 Start the Conversation about Transgender Inclusion in your Workplace

## Letter from HRC Foundation Senior Vice President Mary Beth Maxwell

America's private sector has led the way on adopting inclusive policies, benefits and practices for lesbian, gay, bisexual, transgender and queer (LGBTQ) employees and their families for over a decade. Their commitment to transgender inclusion in the workplace has been striking.

Since its inception in 2002, The Human Rights Campaign Foundation's Corporate Equality Index (CEI) has tracked the progress employers have made toward achieving full LGBTQ workplace inclusion. Today, 87 percent of CEI-rated companies provide employment non-discrimination protections based on gender identity to their employees in the U.S. That's up from only five percent when the CEI was introduced 14 years ago.

The 2016 CEI report found that a record-breaking 511 employers – 60 percent of the companies rated in the index – specifically affirm coverage for transgender health care in at least one of their employer-provided plans. This is up from only a handful of companies a few years ago. The progress has been impressive.

The policy and benefits progress – as so many businesses know – is just the beginning of the needed work ahead. It is well documented that transgender people experience disproportionately high rates of unemployment and under-employment and it is incumbent upon all of us to collectively translate policy into real opportunities for transgender workers.

From supportive Human Resource leaders to transitioning employees, we heard a loud and clear request to create a guide helping make these critical policies real in the day-to-day workplace environment. And it makes sense, after investing so much in creating transgender-inclusive companies, business leaders want to be sure all employees can reap the rewards of their investment. Whether standing on a plant floor, behind a cash register or in a corner office, nearly all of us will spend a significant portion of our lives at work. At the Human Rights Campaign Foundation, this is where we find our center – in the institutions of daily life where LGBTQ people should be able to work, learn, worship and receive healthcare with fairness and dignity.

That's why this guide is so important.

I'm proud of the incredible work of the Workplace Equality Program and I am in awe of the courageous transgender workers and allies that you will see in this groundbreaking video series. By sharing their insights and stories, these powerful speakers will help those who use this toolkit build on existing best practices to transform their workplaces into truly inclusive spaces for everyone.

It's a win-win. When all workers have opportunity, including transgender employees, and no talent is left on the bench, our communities are stronger and businesses thrive.

Sincerely,



Mary Beth Maxwell  
Senior Vice President for Programs, Research and Training  
Human Rights Campaign Foundation

## Section 1

# Transgender Inclusion & the Business Case

### Transgender Inclusion: Making Progress over Time

The Human Rights Campaign Foundation's annual [\*Corporate Equality Index\*](#) (CEI), a national benchmarking survey and report on policies and benefits for lesbian, gay, bisexual, transgender and queer employees launched in 2002. The first CEI in 2002 had just 13 businesses earning a perfect rating, but by the recent 2016 report, reflective of the most stringent criteria to date, 407 major employers earned a 100 percent score and the distinction of being a "Best Places to Work for LGBTQ Equality." The CEI has raised the profile of the needs of LGBTQ employees and their families with respect to employer-provided health care coverage, and a number of relevant policies and practices for the LGBTQ workforce. Since 2002, the competition among the nation's largest private sector businesses to be an employer of choice for the LGBTQ community has been tremendous.

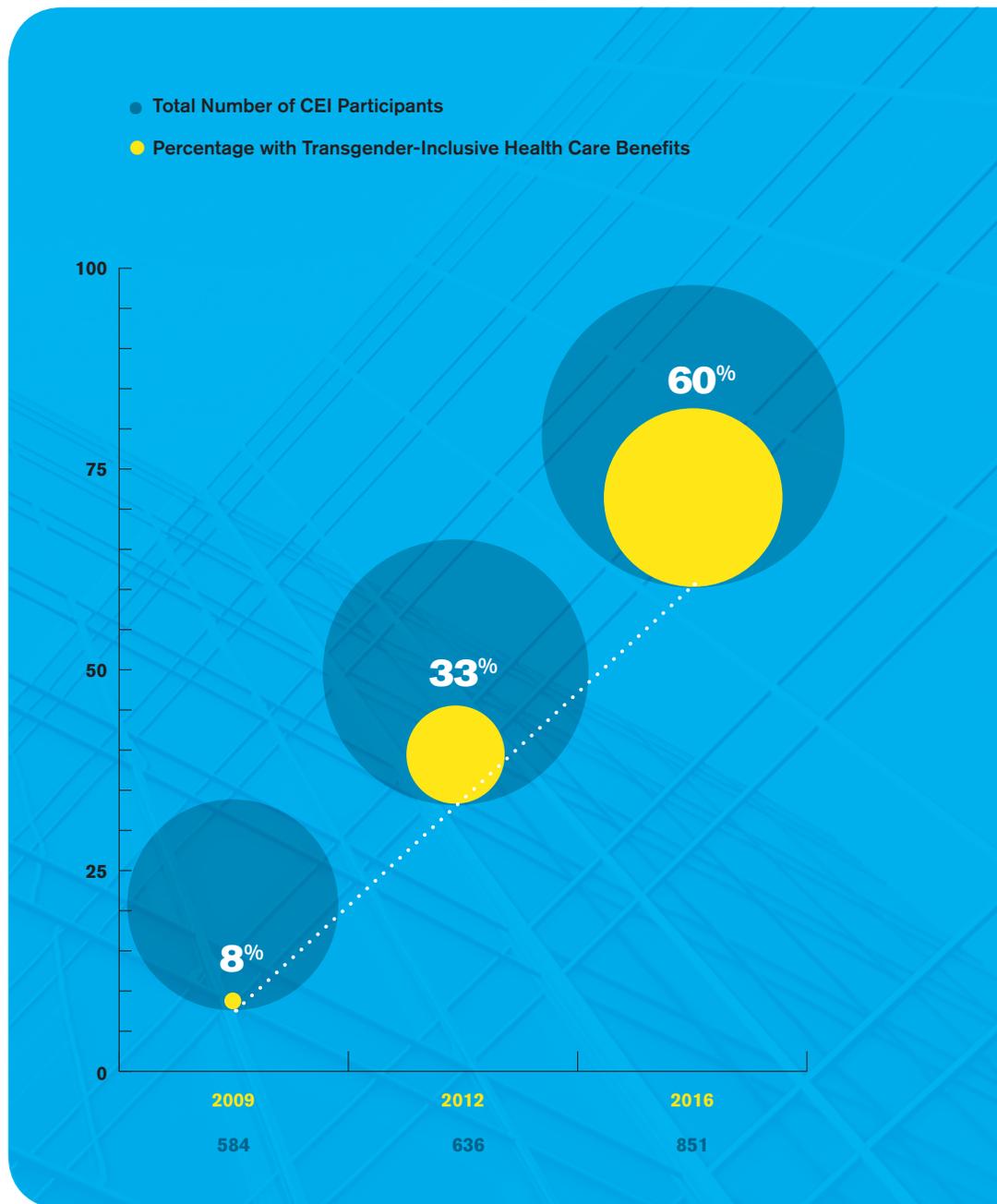
Several measures in the CEI specifically address concerns of transgender and gender non-conforming employees: a non-discrimination policy with protections based on gender identity, the availability of transgender-inclusive health care coverage, and internal and external initiatives such as inclusive diversity training to address cultural competency around gender identity and expression.

Since 2006, the CEI asked about the availability of transgender-inclusive health care coverage, but it wasn't until the 2012 CEI that it became a requirement to have at least one firm-wide available health care plan that affirmed transition-related care to earn 100. Over the last ten years, the HRC Foundation partnered with hundreds of major businesses taking part in the CEI to lead great change in employer-provided health insurance coverage for transgender people. The 2016 CEI report includes a record-breaking 511 employers – 60 percent of the rated companies – that specifically affirm coverage for transgender health care in at least one of their employer-provided plans. The growing trend is undeniable as forward-thinking employers embrace providing health care coverage that addresses the needs across the full-spectrum of their workforces.

From its inception in 2002, the CEI criterion required employers to provide fundamental workplace protections for transgender employees by including gender identity in their non-discrimination policies in order to score 100 on the Index. In the latest CEI report for 2016, 75 percent of all Fortune 500 companies and 93 percent of the 851 CEI-participating businesses

## Transgender Inclusion & the Business Case

- 1 Business Case
- 2 Gender Audit
- 3 Best Practices
- 4 Transition Guidelines
- 5 Health Care
- 6 Business Culture
- 7 Everyday Realities
- 8 For Allies



include these fundamental protections in their non-discrimination policies. Furthermore, more than eight in ten of CEI-rated businesses offer robust diversity and inclusion programs that specifically include training on gender identity. Today, hundreds of employers also equip managers with “gender transition guidelines,” a set of considerations and protocols for transitioning employees. Over three hundred major employers reported the implementation of these guidelines in the 2016 CEI.

### Closing the Gaps

Amidst this great progress, there is more work to be done. Fair-minded employers seeking the best and brightest want to close the gaps between inclusive policies and their own practices and cultural understanding of gender identity to create warm and welcoming workplaces for all employees, including those who are transgender or gender non-conforming. Many insurance policies still include blanket exclusions preventing coverage for medically necessary services for transgender or transitioning people. Companies without gender transition guidelines find themselves ill-prepared to handle an on-the-job transition in a proactive, respectful and successful manner. And, transgender workers still face misunderstanding and even discriminatory workplaces that result in disengaged workers or, even worse, loss of talent to turnover or legal action.

### About this Series

The Human Rights Campaign Foundation created *Transgender Inclusion in the Workplace: A Toolkit for Employers* to provide human resources and diversity and inclusion professionals with an overview of legal and other issues, such as access to inclusive healthcare and barriers to employment, surrounding transgender inclusion, while outlining current best practices from leading U.S. companies today.

This series is designed to help executive, senior and mid-level management, human resources professionals and leaders of LGBTQ employee/business resource groups interested in issues faced by transgender and gender non-conforming employees. The information, policy and practice recommendations, and resources provided will assist leaders dedicated to building more inclusive work groups, employee networks and companies.

The series is presented in eight sections with each addressing a key component of building transgender inclusive workplaces. Video segments accompany portions of the toolkit to highlight key concepts and give voice to the experiences of transgender workers. The videos can be viewed on our website at [www.hrc.org/transtoolkit](http://www.hrc.org/transtoolkit).

HRC thanks the Brown-Forman Corporation for their generous support of this project.



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### The Business Case for Inclusion

The legal landscape continues to shift, increasing protections for transgender people ([more about this on page 11](#)), and businesses are looking to reduce the risk of legal liability and litigation by making efforts to avoid discrimination based on gender identity and expression. Many businesses, however, are motivated to go beyond the minimum and work to foster a diverse and inclusive workplace that aligns with their commitment to fundamental fairness and inclusion – policies that are not only the right

## Transgender Inclusion & the Business Case

***“If employees cannot bring their full selves to work, and if employees live in fear of being treated differently simply based on who they are, it comes at a cost to the company.”***

**Ken Charles,**  
VP, General Mills,  
testifying before Congress  
on the Employment Non-  
Discrimination Act, 2012

- 1**  
Business Case
- 2**  
Gender Audit
- 3**  
Best Practices
- 4**  
Transition Guidelines
- 5**  
Health Care
- 6**  
Business Culture
- 7**  
Everyday Realities
- 8**  
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thing to do, but are also good for business. These companies that promote and champion diversity position themselves to attract and retain the best talent and foster a highly productive environment where people are free to bring their whole selves to work.

### **Attract and Retain Talent**

Human capital is often a company's most valuable asset, and attracting and retaining the best talent is a mission-critical imperative in today's competitive landscape. Employers who value and embrace diversity through their policies and benefits signal their commitment to fundamental fairness to potential recruits, current employees, consumers and investors. Workplaces infused with cultural competency and awareness around diversity and inclusion across all categories – race, gender, ability, sexual orientation, gender identity, gender expression – not only solidify their commitment to fairness, but build loyalty and productivity within their current ranks.

### **Boost Engagement and Productivity**

In today's highly competitive landscape, businesses need all of their employees fully engaged and productive on the job. According to the HRC Foundation's workplace climate report [\*The Cost of the Closet and Rewards of Inclusion\*](#) – a study of the national picture of LGBTQ workers' experiences of inclusion on the job as contrasting with the perceptions of their non-LGBTQ co-workers – employee engagement suffers by up to 30 percent in unwelcoming environments where LGBTQ employees experience a negative workplace environment and/or feel compelled to stay in the closet. Employers committed to transgender-inclusive workplaces can expect higher levels of engagement and loyalty from their transgender employees and their allies. Additionally, by providing transgender-inclusive health care coverage, an employer fulfills the corporate goal of employer-provided health insurance: to ensure a healthy and productive workforce.

### **Risk Mitigation**

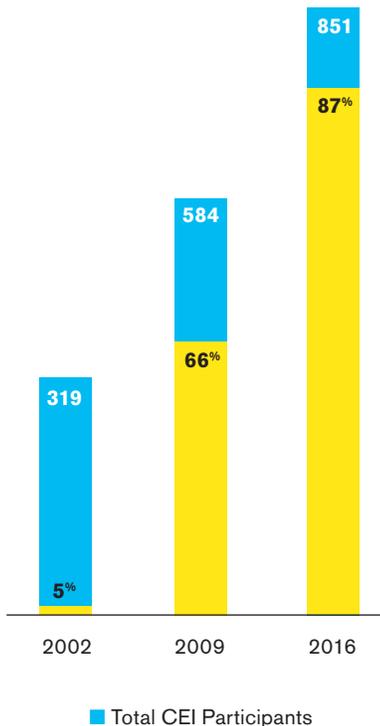
Laws around gender identity and expression are evolving on the local, state and federal level, and today employers face a patchwork of legal obligations to navigate across their business units. Without policies and practices, as well as appropriate training and education, employers face the possibility of expensive legal claims and actions. Even cases that can be defended are costly to litigate, damaging to an employer's reputation, and they are ultimately an expensive distraction from the work at hand.

## Transgender Inclusion & the Business Case

### Gender Non-Conforming or Gender Expansive Identities

Increasingly employees are entering the workplace with gender identities and expressions that may be different from what we most frequently think of when discussing gender. While many transgender people identify on a binary scale – as either male or female – some do not and may instead refer to themselves in various gender expansive ways such as: “genderqueer,” “gender fluid,” “non-binary” or other terms. These gender expansive identities are generally considered part of the greater transgender community.

% of CEI Participants with Gender Identity Protections



## Trends in Transgender Inclusion: A Rising Tide for Transgender Inclusion

Transgender visibility is growing in schools and workplaces, and in public awareness as a whole, through mainstream media and entertainment. Increasing visibility and awareness of transgender and gender non-conforming people is fueling the call to make workplaces inclusive and welcoming of transgender employees. The momentum for building transgender-inclusive workplaces can be documented through three distinct viewpoints: a trend toward transgender workplace protections as documented in the Human Rights Campaign Foundation's [Corporate Equality Index](#), the fast changing legal and legislative landscape, and the increasing cultural visibility and awareness of transgender people.

### Trend Toward Inclusive Workplaces

In recent years, leading U.S. businesses engaged in a sustained effort to improve workplace inclusion for LGBTQ people by implementing policies that protect workers on the basis of sexual orientation and gender identity, as well as enacting practices to build cultural competency and create safe, welcoming work environments.

The results of the HRC Foundation's [Corporate Equality Index](#) (CEI), which benchmarks LGBTQ policies across top employers, demonstrate that leading companies in the United States are increasingly committed to building diverse and inclusive workforces. In 2002, only 5 percent of the CEI-rated employers prohibited discrimination based on gender identity. That number grew to 58 percent in 2008 and 93 percent in the recent 2016 CEI report.

Additionally, for 2016, a record 330 employers reported having gender transition guidelines – the vast majority of which were adapted from the HRC Foundation's template guidelines (see Section 4: Gender Transition Guidelines). Further, over half - 60 percent - of rated businesses provide transgender-inclusive health care coverage options through at least one firm-wide plan.

The overall trend toward transgender workplace inclusion can best be viewed by isolating the progress of the Fortune 500 (that includes both companies that do and do not actively participate in the CEI process) in adding gender identity and expression to their non-discrimination policies: from just 3 percent in 2002 to 75 percent today.

Fortune 500	2002	2008	2013	2016
Gender Identity in Non-Discrimination Policy	3%	25%	57%	75%

### Trend Toward Legal Protections

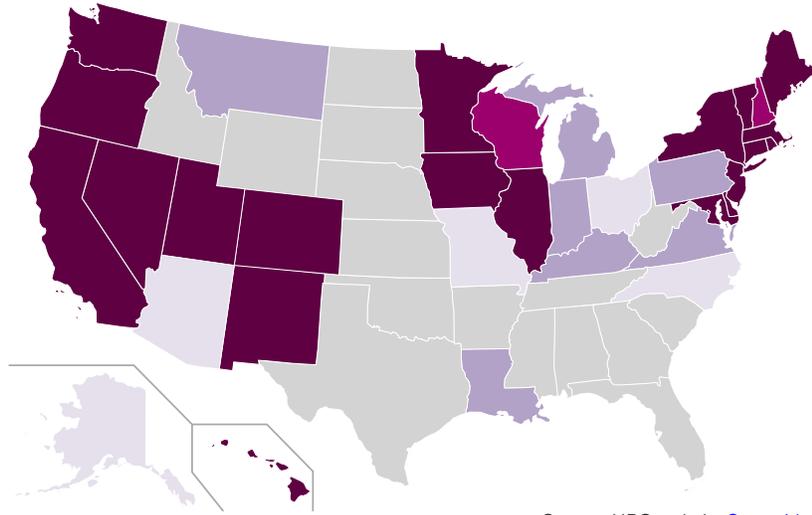
Contrary to popular belief, federal level workplace protections for LGBTQ Americans do not exist even though a full 75 percent of Americans incorrectly believe they do. Additionally, 7 in 10 Americans support adding such protections. Reflective of this support, local, state and federal laws are evolving to include legal protections for people based on gender identity (and sexual orientation). Employers with protections for transgender employees in their own equal employment opportunity or non-discrimination policies, including internal grievance procedures for claims of discrimination based on gender identity and expression, are often ahead of the curve of evolving local, state and federal laws.

Under non-discrimination laws and ordinances that include “gender identity” or “gender identity and/or expression,” employers are barred from firing, refusing to hire, refusing to promote or otherwise adversely treating an applicant or employee who has transitioned genders or plans to undergo a gender transition, or whose gender presentation does not match their designated sex at birth. Some laws and ordinances explicitly protect perceived gender identity and gender expression, while some also provide for restroom access in public locations and places of employment.

The trend is unmistakable: laws are evolving on the local, state and federal level leaving employers to face a patchwork of legislation to navigate across their business units.

### CITY AND COUNTY ORDINANCES

At the time of publication, at least 225 cities and counties prohibit employment discrimination on the basis of gender identity in employment ordinances that governed all public and private employers in those jurisdictions. Additionally, some jurisdictions prohibit discrimination on the basis of gender identity for employees of those cities and counties — these policies do not affect private employers in those jurisdictions. A current list of cities and counties with nondiscrimination ordinances based on gender identity can be found on the Human Rights Campaign Foundation's [website](#).



Source: HRC website [Statewide Employment Laws & Policies](#)

### STATEWIDE EMPLOYMENT LAWS & POLICIES

The Federal Equal Employment Opportunity Commission is now accepting complaints of gender identity discrimination in employment based on Title VII's prohibition against sex discrimination.

- **States that prohibit discrimination based on sexual orientation and gender identity (20 states + 7 D.C.) :**

California, Colorado, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Washington

- **States that prohibit discrimination based on sexual orientation only (2 states.) :**

New Hampshire, Wisconsin

- **States that prohibit discrimination against public employees based on sexual orientation and gender identity (7 states) :**

Indiana, Kentucky, Louisiana, Michigan, Montana, Pennsylvania, Virginia

- **States that prohibit discrimination against public employees based on sexual orientation only (5 states) :**

Alaska, Arizona, Missouri, North Carolina, Ohio

\*State courts, commissions, agencies, or attorney general have interpreted the existing law to include some protection against discrimination against transgender individuals in Florida and New York.

\*North Carolina's executive order enumerates sexual orientation and gender identity. However, this order has a bathroom carve out for transgender employees making the executive order not fully-inclusive.

### FEDERAL LAW

Today, no federal law consistently protects transgender people from discrimination in the workplace. In some states, federal laws barring discrimination based on sex and disability have been argued as avenues for protection for some transgender workers and, over time, the Civil Rights Act of 1964 has been interpreted to provide the most protection for transgender workers.

#### *The Civil Rights Act*

Federal sex discrimination law, under Title VII of the Civil Rights Act of 1964, has historically been interpreted to exclude transgender workers, but in April 2012 the Equal Employment Opportunity Commission (EEOC) handed down a landmark ruling in the case of *Macy v. Holder* that applied nationally what a number of federal courts had already established: transgender people are covered by a federal prohibition on sex-based employment discrimination under Title VII of the Civil Rights Act of 1964. Additionally, in December of 2014, Attorney General Eric Holder announced that the Department of Justice will no longer assert that “Title VII’s prohibition against discrimination based on sex does not encompass gender identity per se (including transgender discrimination).”

Despite the landmark decision in *Macy v. Holder* and the announcement by the Department of Justice, advocates continue the push for an inclusive federal bill explicitly protecting American workers from discrimination in employment on the basis of gender identity and sexual orientation. Although the EEOC ruling and the Attorney General’s announcement were groundbreaking and will influence employee rights and employer policies moving forward, federal courts are not strictly bound by EEOC decisions, and the Supreme Court could overturn this particular interpretation of sex-discrimination under Title VII if lower federal courts disagree. Also, the *Macy* decision does not directly affect the fact that in many states it is legal to fire an employee on the basis of sexual orientation. Without an inclusive federal bill, businesses are left to negotiate a patchwork of laws state-to-state and municipality-to-municipality, leaving them open to risk of legal action.

### MACY V. HOLDER



In the case that established transgender people are covered by a federal prohibition on sex-based employment discrimination under Title VII of the Civil Rights Act of 1964, the Commission found Mia Macy was denied a job solely because of her gender identity. She was highly qualified to be a ballistics officer with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and, because of her unique training, was told after an initial phone interview that she was virtually guaranteed a job with ATF, as long as she cleared a routine background check. A few months later, after Macy disclosed to her future employer that she planned to transition from male to female, she received an e-mail stating that the position was no longer available due to funding cuts. Macy contended that the ATF hired another candidate because they were not comfortable with Macy's transition.

The EEOC held that such actions are discriminatory and illegal by relying on the 1989 Supreme Court case *Price Waterhouse v. Hopkins* and a number of other federal cases applying *Price Waterhouse* to transgender employees. In *Price Waterhouse*, the plaintiff, Hopkins (who is not transgender), was denied a promotion because her employer believed that she was not feminine enough – going so far as to recommend that if she wanted to be promoted, she should wear makeup and jewelry or perhaps take a “course in charm school.” The Court ruled that Title VII not only protects people who are explicitly discriminated against in employment because of their sex, but also those, like Hopkins, who are discriminated against because they do not conform to certain gender stereotypes (i.e. women who are not stereotypically feminine or men who are not stereotypically masculine). In a number of cases since then, federal courts, and now the EEOC, have applied this reasoning to transgender employees.

### ***Presidential Leadership: Enhancing Workplace Protections through Executive Action***

Recognizing the gap in consistent employment protections for LGBTQ people, President Obama signed Executive Order 13672 in July of 2014. Executive Order 13672 amended earlier orders 11478 and 11246 to extend protection against discrimination in hiring and employment to LGBTQ people.

The executive order amended President Richard Nixon's Executive Order 11478 (1969), which originally prohibited discrimination in the competitive service of the federal civilian workforce on the basis of race, color, religion, sex, national origin, handicap, and age. It had been amended in 1998 by President Bill Clinton's Executive Order 13087 to include sexual orientation. Executive Order 13672 amended 11478 to add "gender identity" and create specific protections for transgender civilian members of the federal workforce.

The executive order also amended President Lyndon B. Johnson's 1965 Executive Order 11246, which originally punished discrimination by federal government contractors and sub-contractors on the basis of race, color, religion, sex, or national origin. Executive Order 13672 added "sexual orientation and gender identity". The executive order prohibits companies that contract with the federal government for more than \$10,000 from discriminating in employment based on sexual orientation and gender identity.

Adding employment protections for LGBTQ employees of federal contractors is significant as they employ more than 20 percent of the American workforce – 28 million workers – and collect around \$500 billion in federal contracts every year. According to the Williams Institute, the executive order now protects 11 million more American workers from discrimination based on sexual orientation and up to 14 million more workers based on gender identity.

***"It doesn't make much sense, but today in America, millions of our fellow citizens wake up and go to work with the awareness that they could lose their job, not because of anything they do or fail to do, but because of who they are – lesbian, gay, bisexual, transgender. And that's wrong.***

***I firmly believe that it's time to address this injustice for every American.***

***I'm going to do what I can, with the authority I have, to act. The rest of you, of course, need to keep putting pressure on Congress to pass federal legislation that resolves this problem once and for all."***

**President Obama**

July 21, 2014

### ***The Equality Act: A Solution to the Patchwork***

Certainly, as evidenced by the EEOC action under Title VII, President Obama's executive order and the work of the private sector itself, there has been great progress in the establishment of workplace protections for LGBTQ people. Employers, however, are still faced with navigating a patchwork of laws across their operations – a lack of consistency that is frustrating at best and creates vulnerabilities at worst.

The Equality Act, introduced by Senators Jeff Merkley, Tammy Baldwin, and Cory Booker, and Representatives David Cicilline and John Lewis in the summer of 2015, would create a solution to the patchwork and smooth out expectations across jurisdictions and business operations. It establishes explicit, permanent protections against discrimination based on an individual's sexual orientation or gender identity in matters of employment, housing, access to public places, federal funding, credit, education and jury service. In addition, it would prohibit discrimination on the basis of sex in federal funding and access to public places.

Businesses have a history of weighing in on the need for consistent legal protections for LGBTQ people as evidenced by HRC's Business Coalition for Workplace Fairness – a coalition that had over 125 major employers joining in support of ENDA, the Employment Non-Discrimination Act. Additionally, businesses as diverse as Nike, Dow and General Mills have testified before Congress on the need for such projections.

The Equality Act is no different. Launched in March of 2016, HRC's Business Coalition for the Equality Act includes fair-minded employers – faced with a patchwork of local, state and federal laws providing for non-discrimination on the basis of gender identity and sexual orientation – that support the Equality Act, federal level action that would create uniform expectations across jurisdictions and business operations.

### Business Coalition for the Equality Act

As of September 2016

Abercrombie & Fitch Co., New Albany, OH  
Accenture, New York, NY  
Adobe Systems Inc., San Jose, CA  
Advanced Micro Devices Inc., Sunnyvale, CA  
Airbnb Inc., San Francisco, CA  
Alcoa Inc., New York, NY  
Amazon.com Inc., Seattle, WA  
American Airlines, Fort Worth, TX  
American Eagle Outfitters, Pittsburgh, PA  
American Express Global Business Travel, New York, NY  
Apple Inc., Cupertino, CA  
Automatic Data Processing Inc.  
Bank of America, Charlotte, NC  
Best Buy Co. Inc., Richfield, MN  
Biogen, Cambridge, MA  
Boehringer Ingelheim USA Corp., Ridgefield, CT  
Booz Allen Hamilton Inc., McLean, VA  
Broadridge Financial Solutions Inc., Lake Success, NY  
Brown-Forman Corp., Louisville, KY  
CA Technologies Inc., Islandia, NY  
Caesars Entertainment Corp., Las Vegas, NV  
Capital One Financial Corp., McLean, VA  
Cardinal Health Inc., Dublin, OH  
Cargill Inc., Wayzata, MN  
Chevron Corp., San Ramon, CA  
Choice Hotels International Inc., Rockville, MD  
Cisco Systems Inc., San Jose, CA  
The Coca-Cola Co., Atlanta, GA  
Corning Inc., Corning, NY  
CVS Health Corp., Woonsocket, RI  
Darden Restaurants Inc., Orlando, FL  
Delhaize America Inc., Salisbury, NC  
Diageo North America, Norwalk, CT  
The Dow Chemical Co., Midland, MI  
Dropbox Inc., San Francisco, CA  
EMC Corp., Hopkinton, MA  
Facebook Inc., Menlo Park, CA  
Gap Inc., San Francisco, CA  
General Electric Co., Fairfield, CT  
General Mills Inc., Minneapolis, MN  
Google Inc., Mountain View, CA  
The Hershey Company, Hershey, PA  
Hewlett Packard Enterprises, Palo Alto, CA  
Hilton Worldwide Inc., McLean, VA  
HSN Inc., Saint Petersburg, FL  
Hyatt Hotels Corp., Chicago, IL  
IBM Corp., Armonk, NY  
Intel Corp., Santa Clara, CA  
InterContinental Hotels Group Americas, Atlanta, GA  
Johnson & Johnson, New Brunswick, NJ  
JP Morgan Chase & Co., New York, NY  
Kellogg Co., Battle Creek, MI  
Kenneth Cole Productions, New York, NY  
Levi Strauss & Co., San Francisco, CA  
Marriott International Inc., Bethesda, MD  
MasterCard Inc., Purchase, NY  
McGraw Hill Financial, New York, NY  
Microsoft Corp., Redmond, WA  
Mitchell Gold + Bob Williams, Taylorsville, NC  
Monsanto Co., St. Louis, MO  
Moody's Corp., New York, NY  
Nike Inc., Beaverton, OR  
Office Depot Inc., Boca Raton, FL  
Oracle Corp., Redwood City, CA  
Orbitz Worldwide Inc., Chicago, IL  
PepsiCo Inc., Purchase, NY  
Procter & Gamble Co., Cincinnati, OH  
Pure Storage Inc., Mountain View, CA  
Qualcomm Inc., San Diego, CA  
Replacements Ltd., McLeansville, NC  
Salesforce, San Francisco, CA  
Sodexo Inc., Gaithersburg, MD  
Symantec Corp., Mountain View, CA  
T-Mobile USA Inc., Bellevue, WA  
Target Corp., Minneapolis, MN  
Tech Data Corp., Clearwater, FL  
TIAA, New York, NY  
Twitter Inc., San Francisco, CA  
Uber Technologies Inc., San Francisco, CA  
Unilever, Englewood Cliffs, NJ  
WeddingWire Inc., Chevy Chase, MD  
The WhiteWave Foods Co., Denver, CO  
Williams-Sonoma Inc., San Francisco, CA  
Xerox Corp., Norwalk, CT

### Trend Toward Increasing Visibility and Cultural Awareness

Transgender visibility has experienced a break-through in popular media and the news in the last few years. The lives of transgender people entered the public eye through social media, print, television and film in unprecedented ways. Millions of Americans met transgender people through the very public stories of actress and advocate Laverne Cox, writer Janet Mock, model Carmen Carrera and celebrity Chaz Bono among others. Transgender youth such as Jeydon Laredo, Nicole Maines and Ashton Lee battled with school administrators for dignity and equal treatment at school, and their stories played out across the national stage while the television show “I Am Jazz” chronicled the day-to-day life of transgender teen and HRC Youth Ambassador Jazz Jennings.

In May of 2014, TIME magazine featured actress Laverne Cox, an openly transgender woman, on the cover with the tagline “The Transgender Tipping Point: America’s next civil rights frontier.” Celebrity Chaz Bono, a transgender man, appeared on ABC primetime’s “Dancing with the Stars” and Amazon’s breakout TV show “Transparent” won two Golden Globes. In May of 2015, Diane Sawyer’s interview with Olympian Caitlyn Jenner revealed her struggle to openly express her gender identity and aired to nearly 17 million viewers. Jenner’s subsequent television series “I Am Cait” brought exposure to transgender people and their stories to millions of Americans.

Whether it is Laverne Cox on the cover of TIME or on her hit Netflix series “Orange is the New Black,” transgender people have become part of the national, mainstream conversation in new and unprecedented ways.

Visibility, of course, is only the beginning. Transgender people still face significant discrimination in employment, medical care and housing. Workplace barriers are significant according to the National Center for Transgender Equality’s landmark national survey of thousands of transgender people and subsequent report *Injustice at Every Turn*. Transgender people experience unemployment at twice the rate of the general population at the time of the survey, with rates for people of color up to four times the national unemployment rate. Ninety percent (90%) of those surveyed reported experiencing harassment, mistreatment or discrimination on the job or took actions like hiding who they are to avoid it. And, finally, forty-seven percent (47%) said they had experienced an adverse job outcome, such as being fired, not hired or denied a promotion because of being transgender or gender non-conforming.

Our transgender and gender non-conforming youth face challenges too, from bullying and harassment from peers to lack of understanding and support at home and in schools. This next generation of workers faces significant barriers to acceptance before they even begin to enter the recruiting pipeline.

As the transgender community becomes more visible, we challenge you – committed leaders in LGBTQ workplace inclusion – to evaluate your current workplace processes, practices and climate relative to transgender inclusion and ask yourself: are we doing all we can to help break down the barriers transgender people face to full workplace equality and inclusion? As you make your way through this series, consider what more can you do to make your recruiting process more inviting to transgender applicants or how your workplace can be one where transgender people are not only accepted but one where they can truly thrive.

### ***The Next Lynn Conway? (The Talent that Got Away)***

In 1968 while working as an engineer at IBM, Lynn Conway underwent sex-reassignment surgery and was subsequently fired. Before her termination, Conway had invented a method by which computer processors make multiple calculations simultaneously and dynamically, which consequently led to the creation of supercomputers that can take enormous amounts of data and compile them to look for patterns. In the 1970s, Conway went on to work for the Memorex Corp. at the Xerox Palo Alto Research Center where her innovations influenced chip design worldwide. Conway has since won many awards and high honors, including election as a member of the National Academy of Engineering, the highest professional recognition an engineer can receive. Conway went on to a career in academia as a professor and associate dean of the College of Engineering at the University of Michigan where she now holds the title of Professor of Electrical Engineering and Computer Science, Emerita.

In terminating Conway, IBM was faced with replacing a highly talented employee in a specialized role. Even worse, the company lost significant revenue and profit opportunities when it lost an employee whose work and innovative ideas would influence an entire industry for decades to come.

In today's highly competitive labor market, businesses cannot afford to turn away the next Lynn Conway or harbor an environment that would be unwelcoming to her.

Whether searching for an engineer, a rocket scientist, a welder or a committed food service worker, savvy leaders know that creating a warm and welcoming environment for all people – across a wide spectrum of diversity – opens the door to attract and retain the best and most engaged talent.

### Summary: Join the Rising Tide

Over the last thirty years, lesbian, gay and bisexual people have experienced a sea change of public awareness and support for full and equal rights, but visibility and equality for transgender people has lagged behind. Today, public awareness of transgender people and their lived experience is growing, and with it a call to end the systemic discrimination they face. In many respects, U.S. corporations are leading the way.

Workplaces that welcome transgender and gender non-conforming workers mitigate the risks of negotiating an evolving legal landscape while joining the rising tide of companies that embrace diversity and inclusion across their organizations. These companies understand that policies and practices reflecting the shared values of fundamental fairness and equality work to attract and retain the “best and brightest” employees. Further, they realize that clients and customers also appreciate businesses that embody shared American values of fairness and equality.

The rapid adoption of policies, practices and benefits addressing gender identity demonstrate the greater corporate inclusion efforts of transgender and gender non-conforming employees. As workplace inclusion expectations become more standard, they shape and influence greater social progress at large. Wider adoption of these best practices are critical in removing fundamental barriers that keep transgender and gender non-conforming people from getting and keeping jobs, while laying the groundwork for every employee to thrive within their role.

The next seven sections of this toolkit lay out specific recommendations and provide supporting resources for companies that want to create a truly best-in-class transgender-inclusive work environment.

## Section 2

# Evaluate Your Workplace: Take the Gender Review

### Gender Identity and Gender Expression Workplace Review

For many HR practitioners, D&I professionals and managers, it can be initially surprising how often gender intersects with workplace protocols or procedures. Whether referenced in a dress code or checked off on an internal form, gender and references to gender are pervasive and ongoing parts of the workplace experience.

To highlight where and how gender enters the conversation or workflow in your company, HRC created a “Gender Identity & Gender Expression Workplace Review” for management, human resource and diversity and inclusion professionals, and other interested parties such as employee resource group (ERG) leaders. As each intersection is identified, this review helps assess the company’s current policies and practices surrounding gender identity inclusion.

#### How to Use this Form

HR personnel are generally needed to complete the form. Use each question as a prompt to review the relevant policy, documentation or process. Attach back-up documentation (in the form of the policy, protocol, sample forms, etc.) for each section.

If your company is new to transgender inclusion, use the review as a learning tool to create a checklist of action areas for your inclusion efforts. For experienced companies, use the form as an annual or bi-annual touchstone to ensure your policies and procedures are up-to-date.

#### HRC Review

The team at the Workplace Equality Program is available to **confidentially** review your review findings and make recommendations. To arrange for a full review, contact our team at [cei@hrc.org](mailto:cei@hrc.org).

# Gender Identity and Gender Expression Workplace Review Form

## Introduction:

The attached checklist is intended to serve as a review of company policies, practices and procedures that affirm transgender inclusion in the workplace.

The review content is derived from the Human Rights Campaign Foundation's Corporate Equality Index standards and the HRC Foundation's recommended Gender Transition Guidelines, and from additional supporting materials such as the WPATH Standards of Care.

## Process:

- To allow for the best possible evaluation, reviewers should strive to be thorough in completing the form.
- Input from the Human Resources department may be necessary.
- Wherever possible, documentation and specific examples should be attached to allow for review.

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## **Equal Employment Opportunity**

Does the Equal Employment Opportunity statement include specific language for:

- "gender identity"
- "gender identity and/or expression"
- [Copy of EEO statement attached](#)

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## **Employment Benefits**

### Health Insurance Coverage:

*Note: Deciphering the ins & outs of transgender-inclusive coverage can be difficult. The team at HRC's Workplace Equality Program can help. Contact us at [cei@hrc.org](mailto:cei@hrc.org) for a review of your plan documents including recommendations for best practices.*

For all benefits-eligible U.S. employees, does at least one health insurance plan meet the following criteria:

- Benefits are available firm-wide to all U.S. based eligible employees?

## Evaluate Your Workplace: Take the Gender Review

- Does the insurance contract explicitly affirm transgender services?
- Are blanket exclusions for transgender coverage removed?
- Is the insurance contract and/or the policy documentation based on the WPATH Standards of Care? If so, what WPATH standards are referenced?
  - WPATH Standards of Care v.6 2001 and WPATH Clarification of Medical Necessity 2008 (most common)
  - WPATH Standards of Care v.7 2012 (most current)
- Is coverage available for non-U.S.-based employees?
  - Yes  No
  - [Copy of the non-U.S. coverage description attached](#)

### Documentation of Coverage:

#### Plan Accessibility:

- Is the plan documentation readily available to employees? Where do they find it?  
-----
- Does the plan documentation clearly communicate inclusive insurance options to employees and their eligible dependents?
- Does the plan language ensure “adequacy of network” or access to specialists for transition-related care (including provisions for travel or other expense reimbursements)?
- Does the insurance company provide “concierge” or specially trained customer service reps to handle transgender healthcare inquiries?

#### Indicate whether the following benefits are extended to transgender individuals:

- Short-term medical leave
- Mental health benefits
- Pharmaceutical coverage (e.g., for hormone replacement therapies)
- Coverage for medical visits or laboratory services
- Coverage for *reconstructive* surgical procedures related to sex reassignment – limited, and usually includes the following:
  - Female-to-male:
    - Bilateral Mastectomy (without nipple reconstruction)
    - Hysterectomy and bilateral salpingo-oophorectomy
    - Vaginectomy (including colpectomy, metoidioplasty with initial phalloplasty, urethroplasty, urethromeatoplasty)

**Evaluate Your Workplace:** Take the Gender Review

- Male-to-female:
  - Orchiectomy
  - Vaginoplasty (including colovaginoplasty, penectomy, labiaplasty, clitoroplasty, vulvoplasty, penile skin inversion, repair of introitus, construction of vagina with graft, coloproctostomy)
  - Breast augmentation

Increasingly companies are moving beyond sexual reassignment surgeries only to offer enhanced benefits programs that meet the full needs of transgender people as defined under the WPATH standards. Please indicate whether your plan covers the following:

- Tracheal shave
- Facial feminization surgeries
- Body contouring and/or liposuction
- Laser hair removal or electrolysis
- Nipple reconstruction or tattooing
- Travel funds for surgical care
- Other (list) \_\_\_\_\_

Any additional medical and surgical coverage beyond above?

If so, provide or attach a list of additional services/procedures covered:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Fully inclusive coverage defined as procedures deemed medically necessary as established between the transgender person and their health-care provider
  - [attach documentation](#)
- Coverage of routine, chronic or urgent non-transition services based on the person's sex or gender (for example, prostate exams for women with a transgender history and pelvic/gynecological exams for men with a transgender history must be covered).

**Evaluate Your Workplace:** Take the Gender Review

What are the dollar maximums on this area of coverage?

- No cap (Recommended best practice)
- < \$75,000
- = \$75,000
- > \$75,000

Copies attached:

- [Excerpt of Summary Plan Description \(SPD\) – or – complete Summary of Material Modifications \(SMM\) indicating coverage is available](#)
- [Any medical policy, clinical guidelines or policy bulletins that indicate the range of services covered and the process of determining coverage eligibility](#)

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**Organizational Transgender Competency**

Competency training, resources and accountability measures:

Application & Interview Stage:

- Application includes ability to note preferred vs. legal name
- Background check forms require legal name
- Background check forms require full history of legal names
- Interviewer has a process to know or allow for preferred name. How is this done?

-----

Include other relevant details:

-----  
-----  
-----

**Evaluate Your Workplace:** Take the Gender Review

On-boarding:

- On-boarding forms include opportunities to note preferred name vs. legal name wherever possible. Examples of documents to review & pull together:
  - email and system logins
  - employee directory and nameplate designation forms
  - business card order form
- Where legal name is required it is due to a legal constraint such as payroll, insurance forms, licensing, etc.

Cultural competency:

- New hire training clearly states that the nondiscrimination policy includes gender identity and/or expression
- New hire training provides a definition and a scenario illustrating nondiscrimination policy for includes gender identity and/or expression

Describe when this training takes place. Provide examples of content here or as an attachment:

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Managerial Competency:

- Supervisors and managers undergo training that includes gender identity and expression as a discreet topic (may be part of a broader training).
- Supervisor and manager training includes a definition and a scenario illustrating non-discrimination policy for gender identity and expression.

Describe when this training takes place. Provide examples of content here or as an attachment:

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**Evaluate Your Workplace:** Take the Gender Review

Professional Development and Leadership:

- Gender identity and expression is included in professional development and other leadership training that includes elements of diversity and/or cultural competency.

Describe when this training takes place. Provide examples of content here or as an attachment:

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-----  
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Support and Communication:

- The company has an employee resource group (or affinity group).
- The company has a diversity council.
- Senior management/executive performance measures include LGBTQ diversity metrics.
- The company performs anonymous employee engagement or climate surveys that allow employees the option to identify as a member of the LGBTQ community.
  - Annually       Biannually
- Company data collection forms that include employee race, ethnicity, gender, military and disability status — typically recorded as part of employee records — include optional questions on sexual orientation and gender identity.

- Copy of application form attached
- Copy of background check authorization form attached
- Copy of survey language attached
- Copy of company data collection form(s) attached

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**Policy in Action: Gender Transition Guidelines**

*Documentation and Communication of Guidelines*

- The company has documented “Gender Transition Guidelines.”
- Gender transition guidelines are published: (check all that apply)

*Company Intranet:*

- HR resources section
- LGBTQ employee group section
- Link to guidelines from other applicable sections such as
  - Employment non-discrimination/ equal employment opportunity policy
  - Dress code
  - Restroom, locker room policies
- Company intranet search terms: employees looking for information may use a variety of terms to find company gender transition guidelines and other policies related to transgender inclusion such as: transition guidelines, gender identity, gender expression, transgender, transsexual, cross dress, gender reassignment, sex reassignment, sex change\*, SRS, GRS, transgendered\* (\*these are not preferred terminology, but are intended to capture potential searches). Ensure policies are associated with a robust list of search terms
- Company-written employee handbook
- Other: \_\_\_\_\_

Do you have a company EAP and/or a Human Resources hotline?

- Yes  No  Both

- EAP representatives and/or HR hotline have a copy of the guidelines.
- EAP representatives and/or HR hotline staff receive cultural competency training in gender identity and expression and possess a thorough understanding of the guidelines and relevant policies.

## Evaluate Your Workplace: Take the Gender Review

### Guideline Specifics:

Gender transition guidelines outline the critical components to successful on-the-job transition experiences for the employee, the co-workers and the company. Gender transition guidelines should, at a minimum, address the following:

- Guidelines specify people or roles charged with helping a transitioning employee manage their workplace transition.
- Outlines what a transitioning employee can expect from management.
- Communicate management's expectations for staff, transitioning employees and any existing LGBTQ employee group in facilitating a successful workplace transition.
- Outlines the general procedures for implementing transition-related workplace changes, such as adjusting personnel and administrative records.
- Provides a plan for how a communication strategy for co-workers and clients will be developed.
- Includes educational material regarding transgender people, including a glossary of relevant terms.
- Answers frequently asked questions about dress codes and restroom use.

Gender transition guidelines are generally fairly robust documents addressing a wide variety of issues relevant to transgender inclusion. As such, it is best that the actual plan language be attached for a complete review by an outside party.

- [Copy of gender transition guidelines attached](#)

## Section 3

# Navigating Gender Inclusion in Gendered Spaces: Best Practices

### ***The Coca-Cola Company Equal Opportunity and Affirmative Action Policy Statement***

The Company is committed to maintaining a work environment free from all forms of unlawful discrimination and harassment. It is the Company's policy to prohibit discrimination and harassment against any applicant, employee, vendor, contractor, customer, or client on the basis of race, color, religion, sex, national origin, age, disability, pregnancy, veteran status, genetic information, citizenship status, marital status, sexual orientation, gender identity and/or expression, or any other reason prohibited by law. The Company also prohibits retaliation against any individual who has complained of harassing or discriminatory conduct, or participated in a Company or agency investigation into such complaints.

Source: Coca-Cola website

### **Policies and Practices of Best-In-Class Employers**

Employers seeking to hire and retain the “best and brightest,” stay ahead of evolving local, state and federal law, and mitigate legal exposure to claims of discrimination should adopt the following recommendations.

These policies and practices are already in place in many top companies, defining them as truly “best in class” employers for transgender and gender non-conforming people.

#### **Recommendation:**

#### **Non-Discrimination Policy Includes “Gender Identity or Expression” as a Protected Category**

*Include “gender identity” among the list of protected categories in your firm-wide non-discrimination and anti-harassment policies.*

Employment policies and “codes of conduct” that delineate protected categories — especially the primary non-discrimination or Equal Employment Opportunity policy — should include the term “gender identity.” Non-discrimination policies should be included in employee handbooks and be easily accessible to employees, suppliers, clients and customers. This can be accomplished by prominently including policies on the business' website and in job announcements. If applicable, make sure to clearly communicate to your customer-facing employees how your non-discrimination policies apply to customers.

#### **Non-Discrimination Policy Best Practice: “Gender Identity” or “Gender Identity and/or Expression”**

At a minimum, non-discrimination policies and codes of conduct should include the term “gender identity” to make clear the employer's commitment to a workplace inclusive of transgender workers. As a best practice, include the phrase “gender identity and/or expression” to make a non-discrimination both on the basis of transgender status and on gender expression clear.

## Navigating Gender Inclusion in Gendered Spaces: Best Practices

- 1 Business Case
- 2 Gender Audit
- 3 Best Practices**
- 4 Transition Guidelines
- 5 Health Care
- 6 Business Culture
- 7 Everyday Realities
- 8 For Allies

### **Be Proactive – Gender Transition Guidelines**

For employees who are transitioning on-the-job, having a set of written gender transition guidelines can help avoid misunderstandings by proactively addressing how name and gender marker changes are managed as well as when the employee will change facilities. [See Section 4](#) for an easy to use template to create your own guidelines.

### **Food for Thought:**

Many people use a preferred name or nickname in the workplace – not just transgender people. Using preferred names is a form of respect.

### **Recommendation:**

#### **Create Transgender-Inclusive Practices across the Organization**

Best-in-class employers ensure their practices are inclusive across the workplace. Areas to be addressed include but are not limited to: administrative and record-keeping practices, access and use of facilities, dress codes and gender self-identification in confidential HR records or anonymous employee engagement surveys.

#### **Administrative and Record-Keeping**

**Recommendation:** *Companies should recognize a transgender employee's preferred name and gender to the greatest extent possible, including internal and external personnel directories, e-mail address and business cards. Further, they should develop systems for addressing situations in which an employee's preferred name and gender expression do not match legal documents.*

**Recommendation:** *For transitioning employees with name and gender marker changes, employers should update an employee's name and gender in personnel and administrative records accordingly.*

In the event an employee's name or gender marker does not match legal documents, employers should recognize the individual's preferred name and gender wherever possible. Be sensitive to those employees who are not yet able to legally change their gender markers and endeavor to accommodate them.

In recruiting efforts, employers should be sensitive to those employees whose name and gender markers may not match their records; for example, college transcripts, military service records and professional certifications, which may be difficult if not impossible to change.

Human resource and administrative professionals need to be cognizant of confidentiality issues and protect a transgender employee's gender history where records may be revealing but the employee is not "out" in the workplace as transgender.

### **Did You Know?**

The process for changing one's name and/or gender marker on identity documents such as driver's licenses and birth certificates varies from state-to-state. In some states, it can be very difficult to make these changes due to financial, legal and other barriers. Allowing the use of preferred names and pronouns wherever possible and wherever there is no legal reason not to, communicates a welcoming environment and affords the greatest amount of respect to the transgender individual.

### Access to Facilities

**Recommended:** *Allow employees to access gender-segregated facilities such as locker rooms and bathrooms corresponding to the gender with which they identify. Co-workers uncomfortable with a transgender employee's use of the same restroom or locker room should be advised to use separate facilities.*

Restrooms and locker rooms can be a challenging topic for transgender and non-transgender employees alike. Allowing employees to use the facility that corresponds with their gender identity not only dignifies transgender people, it also makes sure the employer is in step with guidance from Occupational Safety and Health Administration (OSHA) and ensures that the employer is not in violation of local or state non-discrimination laws where they exist. Further, preventing a transgender person from using the restroom that corresponds with their gender identity and expression may be construed as discriminatory under Title VII of the Civil Rights Act ([see page 13 under "The Civil Rights Act"](#)).

#### ***What is the employer's obligation regarding restrooms?***

Employers are legally required to provide workers reasonable access to restroom facilities. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) requires that employers make toilet facilities available so that employees can use them when they need to do so, and the employer may not impose unreasonable restrictions on employee use of the facilities.

Further, OSHA has issued [guidance to employers on best practices regarding restroom access for transgender workers](#). The core principal of these guidelines is that all employees, including transgender employees, should have access to restrooms that correspond to their gender identity.

No federal, state or municipal laws or regulations specifically pertaining to gender identity require employers to utilize one type of bathroom over another, or to construct new facilities to accommodate transgender individuals.

However, some jurisdictions regulate aspects of these restrooms. For example, the District of Columbia requires single-occupant restroom facilities in any public space (e.g., restaurants) to be gender neutral – restrooms designed for use by one individual at a time may not have a specific gender designation with "male" or "female" signage or icons – but does not require employers to have single-occupant restrooms instead of another type.

## Navigating Gender Inclusion in Gendered Spaces: Best Practices

*“Our policy now provides all gay, lesbian, bisexual and transgender employees with equal access to opportunities and fair treatment on the basis of merit. Simply put, all GLBTA employees can feel one step closer to bringing their whole selves to work.”*

**Deb Elam**, GE's Diversity Officer when announcing the amendment of GE's non-discrimination policy to include “gender identity or expression” in 2012

- 1 Business Case
- 2 Gender Audit
- 3 **Best Practices**
- 4 Transition Guidelines
- 5 Health Care
- 6 Business Culture
- 7 Everyday Realities
- 8 For Allies

Remember that many people value privacy, not just transgender employees – so employers may consider creating single-use, gender-neutral restrooms for all employees to use in addition to gender-segregated restrooms. Keep in mind that any decision to require transgender employees to use a certain restroom could be discriminatory and could lead to liability risks for the employer.

Where multiple occupant, gender-segregated restrooms already exist, employers can enhance privacy with features such as flaps to cover gaps in stall doors or stall walls and doors that extend from floor to ceiling.

For locker rooms, employers should create private changing areas using stalls or curtains. Most employers can create at least one such area with minimal trouble or investment. Further, where showering facilities are

### Sample Restroom Policy

Restroom and locker room access issues need to be handled with respect and consideration. It is **Company's** obligation to provide all employees, guests and customers adequate facility access.

**Company** policy is that employees, guests and customers should use the facilities that correspond with their gender identity. For example, a person who identifies as a man should use the men's restroom, and a person who identifies as a woman should use the women's restroom. All employees, guests and customers should determine the most appropriate and comfortable options for themselves.

Where possible, **Company** has provided additional facilities including:

- Single-occupancy, gender-neutral (unisex) facilities; and
- Use of multiple-occupant, gender-neutral restroom facilities with lockable single occupant stalls.

Note: any employee may choose to use these options, but no one, including a transgender person, is required to.

As with restrooms, all employees, guests and customers have the right to use the locker room appropriate to their gender identity. **Company** has taken steps to provide for additional privacy in its locker rooms for those employees who desire more privacy – not just a transgender employee – but any employee who values increased privacy.

necessary, it is best for the privacy of all employees to have individual stalls. Again, where building facilities and options are limited, having at least one private, single stall shower will accommodate employees desiring additional privacy.

While no single solution will work for every worksite, employers committed to transgender inclusion should be able to find reasonable solutions that maintain the dignity and respect of all their employees.

***Responding to Employee Concerns Regarding Restrooms or Locker Rooms:***

***Talking Points for Managers***

If an employee, guest or customer approaches you with concerns over sharing facilities with a transgender person, consider the following:

**Listen.** What exactly is the concern? Are they concerned for privacy or safety? If so, an honest and upfront conversation may help alleviate their concerns.

**Refocus:** Acknowledge apprehension while reminding the person that everyone needs to use the restroom and that this is about ensuring access for all. Refocus conversation on behavior: we all know what appropriate restroom behavior looks like. If everyone's behavior is appropriate, then there should not be an issue.

**Reinforce:** It may help to reinforce company values of respect for all employees, guests and customers noting that everyone is allowed, by company policy, to use the facilities that correspond to their gender identity. If useful, share success stories from other company experiences with transgender employees transitioning on the job.

**Remind:** If the co-worker, guest or customer is still reluctant and concerned, maintain the policy and remind them of other options. For example, the concerned person may use a restroom on a different floor or in a different area. If no other facilities are available, the person can wait for the transgender employee to exit before using the restroom.

**72%**

of LGBTQ employees say they would self-disclose their sexual orientation or gender identity along with other demographic information in an anonymous human resources survey, while 18 percent say they would not self-disclose and 10 percent are not sure whether they would or not.

Of the combined 28 percent that would either not self-disclose or are unsure, 59 percent indicate they “don’t trust that the survey is confidential” and 40 percent indicate that they are “not sure how the information would be used.”

**Source:** HRC’s National Workplace Climate Research. See more at [www.hrc.org/climate](http://www.hrc.org/climate)

**See examples of self-ID questions at**  
[www.hrc.org/workplace](http://www.hrc.org/workplace)

### Allow Self-Identification

**Recommendation:** *Where appropriate, expand options for self-identifying gender identity on internal forms and in surveys.*

The question of gender with only “female” and “male” options can pose a challenge for transgender and gender non-conforming people. Many transgender and gender non-conforming people do not identify with either one of the simple binary gender designations, and some may feel limited by the “female” or “male” options.

Employers committed to diversity and inclusion may want to track their initiatives with regard to the transgender community alone – or the LGBTQ community as a whole – in recruiting, retention, professional development or other employee satisfaction measurements.

Employers generally capture employee demographic information in two ways: 1) in confidential employee records via Human Resource Information Systems (HRIS), and 2) through anonymous employee engagement surveys. Whether storing this information as part of the HRIS record or using it in a survey, employers should be sensitive to transgender and gender non-conforming people in how they request the information and expand the options to allow employees to self-identify beyond the binary male/female.

Questions to ascertain gender identity can be structured to allow anywhere from quite restrictive answers to quite open ones. Employers should evaluate how best to capture the data they need while allowing for a range of expression.

To maximize response rates over time, employers need to proactively communicate the purpose for the self-identification questions and emphasize the confidentiality of survey answers in order to address these concerns.

As with all sensitive and confidential data, employers asking about gender identity and sexual orientation should take care to protect how the data are used, stored and reported as well as consider any legal restrictions on data collection and storage here in the United States as well as globally.

### **Make Dress Codes Gender Neutral**

**Recommendation:** *If an employer has a dress code, it should avoid gender stereotypes and be enforced consistently. If an employer must have a gender-specific dress code, then transgender employees should be allowed to dress in accordance with their gender identity.*

Employers should revise dress codes and policies to make them gender neutral. Generally speaking, policies that specifically define the kinds of attire that males and females may wear tend to be based on stereotypes and gender expectations. By contrast, policies that require professional business attire irrespective of sex or gender are recommended. For employers who have a “male” and “female” version of a uniform, employees should be allowed to wear the uniform that comports with their gender identity.

### **Conversations: Ensure Employee’s Privacy**

**Recommendation:** *Keep the employee’s health status private and confidential, limited to the fewest people necessary and, to the extent possible, limited to Human Resources professionals. Even in these parameters, discussions about specific medical treatments or care should be limited to need-to-know information.*

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 the Health Insurance Portability and Accountability Act (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.

Although the transgender status of an employee that transitions on the job may require a certain level of disclosure, for example to colleagues or close client relationships, discussions about the employee’s personal situation and medical treatment — including surgical procedures or hormone use — should be off-limits in the workplace. Some transgender people may feel more comfortable having these frank discussions with their colleagues than

others, in which case these discussions should be left to their discretion. In general, to help manage the workplace conversations and speculation provide the transitioning employee with a standard statement such as: “Like other health matters, management has asked me to keep medical conversations to a minimum.”

When a transgender employee first begins employment with an employer, or moves to a different part of the same organization with new colleagues (such as a transfer from one state to another), that person may never have a need to disclose their transgender status to their employer, manager or co-workers. Employers should guide managers to ensure confidentiality in the event that they learn of an employee’s transgender status from other sources in the normal course of doing business, rather than from the employee themselves. Lastly, managers and co-workers who were part of a colleague’s gender transition process should be reminded that the information is confidential. There is no reason to continue to discuss the transition and new hires to the working group do not need to be informed unless the transgender person wants to share that information themselves.

***Summary of Best Practices:***

**Administrative & Record Keeping:**

Allow for preferred name and gender where possible. Smoothly facilitate legal name and gender marker changes.

**Facilities:**

Allow employees to access gender-segregated facilities such as locker rooms and bathrooms corresponding to the gender with which they identify.

**Self-Identification:**

Where appropriate, expand options for self-identifying gender identity on internal forms and in surveys.

**Gender-Neutral Dress Codes:**

If an employer has a dress code, it should avoid gender stereotypes and be enforced consistently. If an employer has a gender-specific dress code, then transgender employees should be allowed to dress in accordance with their gender identity.

**Maintain Confidentiality:**

Keep the employee’s health status private and confidential, limited to the fewest people necessary and, to the extent possible, limited to Human Resources professionals. Even in these parameters, discussions about specific medical treatments or care should be limited to need-to-know information.

## Section 4

# Proactive Planning: Gender Transition Guidelines

It is often said that when a person transitions gender, everyone around them transitions along with them. In other words, a workplace transition involves change not only for the employee but also for their manager, colleagues and clients.

Business leaders know the importance of proper planning, communication and training in implementing successful organizational change. A successful gender transition is no different. A little planning can go a long way to ensuring a successful outcome for all involved – the transitioning employee, managers, colleagues and clients/customers.

Gender transition guidelines, a written set of guidelines to manage an on-the-job gender transition, lead HR professionals, managers and transitioning employees through a proactive planning process.

### **Recommendation:**

#### **Adopt Written Gender Transition Guidelines**

*To ensure the best possible outcome for a transitioning employee, their co-workers and the organization, companies should adopt a written set of gender transition guidelines.*

Gender transition guidelines outline protocols for gender transitions that clearly delineate responsibilities and expectations of transitioning employees, their supervisors, colleagues and other staff.

The guidelines should be flexible enough to tailor to specific needs of a transitioning employee, while specific enough to provide a consistent framework that eliminates confusion and potential mismanagement. For example, one employee may prefer a quick start in which all co-workers and peers are informed about the transition at the end of the work week, and the employee then comes to work the following week presenting in their new gender. Another employee may prefer a more gradual transition, in which colleagues are notified of the transition plan, but the employee does not actually come to work in their new role for several weeks. However, in both cases, a designated contact in human resources is responsible for helping each transitioning employee and their supervisor manage the workplace transition process.

## Proactive Planning: Gender Transition Guidelines

*“When living a dual role finally became impossible, I packed all of the belongings in my office into a box, and placed a call to the corporate HR office and explained what I was doing and that I could not continue to live with a dual gender expression – male at work, and affirmed female nearly everywhere else. To my incredible surprise, I was informed of our inclusion policy, told about nondiscrimination policies that protect gender identity and expression, learned more about health benefits that can help my medical needs, and given support and tools to develop a plan for coming out to my co-workers.”*

**An employee**  
from Alcoa, Inc.  
regarding her on-the-job  
transition

Guidelines should address:

- Who in the business is charged with helping a transitioning employee manage their workplace transition
- What a transitioning employee can expect from management
- What management's expectations are for staff, transitioning employees and the LGBTQ employee resource group in facilitating a successful workplace transition
- What the general procedure is for implementing transition-related workplace changes, such as adjusting personnel and administrative records
- Development of a comprehensive communications plan for colleagues and clients
- What additional resources may be necessary such as special training and education

When announcing an employee's plan to transition, senior management can send a strong message of support and set the tone for the business' expectations of staff going forward. Some employers assign a senior executive to act as a “sponsor” for the transitioning employee to help communicate top-down inclusive messages and expectations.



# Template for Gender Transition Guidelines

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How to use this template: Please read carefully and adjust the language to reflect your company culture. Refer to specific company policies wherever indicated. Specific references to the company name, internal policies, the EAP (if you have one) and the ERG (if you have one) are noted in ***bold italic***.

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## ***Company*** Gender Transition Guidelines

### Introduction

***Company*** is an advocate for diversity and equal employment opportunities for all qualified candidates. We do not discriminate on the basis of gender identity or expression. We believe that providing a work environment based on respect, trust, and collaboration creates an exceptional employee experience where employees can bring their whole selves to work and thrive in their careers.

These guidelines are intended for ***Company's*** transgender and gender non-conforming employees, their co-workers, managers, human resource professionals, LGBTQ employee group leaders and others who may be involved in a workplace gender transition. It covers best practices for employees and managers as well as how to address customers and clients.

Transgender is a broad umbrella term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. This includes people who socially and medically transition, as well as others who simply feel their assigned sex at birth does not reflect their true gender.

## Proactive Planning: Gender Transition Guidelines

### About Gender Transition

While the majority of people are comfortable with, and identify with, the physiology and identity they are assigned at birth, there is a portion of the population who are not. These people may or may not identify as transgender. Generally they may take steps to actively change their:

**Physiology** – which can include hormones, surgery or sex reassignment surgery – i.e. male-to-female or female-to-male, or

**Expression** – for example clothing, hairstyle, mannerisms/body language, voice – to better express and interact with the world as they truly are.

The process a transgender person goes through to publicly change their gender presentation in society is known as “transitioning”. Not everyone who considers themselves transgender will undergo a medical (or physiological) transition and those that do may take all the steps available to them, or only some of them. Gender transition is a personal process and it is important to note that there is no one way to transition.

The person transitioning usually legally changes their name as well as their clothing and appearance to coincide with their gender identity. Some will make body changes such as hormone replacement therapy (HRT), sex reassignment surgery (SRS), and/or other components. These changes are medically necessary for people with gender dysphoria and take place under strict medical supervision.

It is important to realize that each individual undergoing a transition will have their own set of unique factors which will require a customized plan. Like any significant life event, employees may benefit from additional support. It is also important for the individual to work with their manager and HR representative in an open and honest way to allow for a smooth process in the workplace.

### Best Practices for the Transitioning Employee

If you are the transitioning individual, you have the right to openly be who you are. This means that while still maintaining professional expectations, you may express your gender identity, characteristics or expression without fear of negative consequences.

With this right, however, also comes the expectation that you will work with others to ensure they understand your needs and you understand the expectations of you.

As part of a team, it is important for you to do your part to make the transition successful and one of the first steps is to inform key personnel who can assist you.

Your first point of contact may be:

- your immediate manager
- your HR representative
- a member of **Company’s Employee Assistance Program**
- or a member of your local **LGBTQA Employee Resource Group**

## Proactive Planning: Gender Transition Guidelines

**It is important that at some point your immediate manager or HR representative becomes part of your support team.**

Remember, as with all employees, you are covered under **Company's** non-discrimination policy; however, **Company** must be aware of your situation in order to provide support. Take the time to explain to the person that you've selected to speak with your intentions, needs, and concerns. Be aware that your manager and/or HR representative and others may not be educated about transgender issues and may not understand clearly what your needs may be.

You should also be prepared to spend some time educating people, but you don't need to do it alone. Your local **LGBTQA Employee Resource Group** can help you think through your ideas and prepare for those discussions. Your local **LGBTQA Employee Resource Group** and **Employee Assistance Program** can also get you in touch with other employees who may have transitioned in the workplace and may be able to assist you with questions you may have.

You can access your local **LGBTQA Employee Resource Group** by emailing \_\_\_\_\_ . This is a confidential email address only accessible by a senior manager who oversees the LGBTQA area of focus.

## Best Practices for Managers and HR Representatives

Company is committed to and supports diversity. If someone who reports to you informs you of their desire to transition or if a person in your workplace is currently in the transition process, your support is critical.

### Key Principles

- If you are unfamiliar or uncomfortable with the transition process, **allow the transitioning individual to educate you** (if they are willing). Additional education and support is available from the **Employee Assistance Program** or the *LGBTQA Employee Resource Group* as well as your HR representative.
- Listen carefully to what the individual is telling you about how they'd like to be treated. For example, do they want to keep their transition as quiet as possible or do they wish to celebrate publicly?
- **Be open-minded** and discuss the transitioning person's needs and concerns.
- If you oversee, manage, or lead an employee who is transitioning, it is important that you **demonstrate an understanding, and use a sensitive approach** to their needs and concerns.

Based on past experiences of bias, a transgender employee may be understandably reluctant to disclose and to make themselves vulnerable to a person upon whom their job depends. It is important that you make it clear that your conversation will be held in confidence. Also ask their permission to talk to the HR representative for further assistance.

- **Explain any questions and concerns you might have** and ask their opinion on matters covered in subsequent sections.

## Proactive Planning: Gender Transition Guidelines

- Once the employee has made contact with the people manager or HR representative, information must be gathered **before planning the steps** of transition can begin.

The HR representative needs to know when the transitioning employee expects to start to present themselves in their new gender. Usually by the time an employee comes to HR, they will have a date or timeframe in mind for presenting themselves in their new gender.

The employee may also have an idea about when they may need to take some time off for medical needs. These dates can change, depending on the person's readiness at each stage.

- **Provide support:** Employees that have decided to transition are normally exposed to various levels of stress. It is important that you provide information on the **Employee Assistance Program** and other resources for the employee to seek one-on-one counseling during the transition process.
- If the transitioning employee prefers to move work locations, the business should work on a best-effort-basis to move the employee to a similar role, within an appropriate distance.
- If the person is married or partnered, ask how you should refer to them during and after the transition, e.g. partner, wife, husband, etc. and identify if there are any implications to employer-provided benefits.

### Initial Conversations

When an employee contacts their manager or HR representative to explain they are planning to transition and wants to start presenting in their new identity, the employee will need to be assured that **Company** will work with them to help make their transition as smooth as possible. It is often with great anxiety that the person has come to this point as they would have heard stories from other individuals who have transitioned in the workplace who may have been treated badly at work, so this assurance is important.

Second, the employee should be reassured that the information they share will be treated with absolute 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.

In addition, the employee would like to feel confident that the people who will help plan their transition will take steps to inform themselves about transgender issues and the transition process.

Finally, the transitioning employee would like to be assured that they will have input into planning the steps of their transition at work. The employee should always have the main voice in the timing of beginning to work in their new gender role and any changes in their workplace routine.

### Respecting the Individual's Privacy

Not only do the specific steps of transition and their timing vary, people also differ in how public they want to be as they transition.

Some people prefer that as few people as possible know they are about to transition and hope that after the transition they can quietly blend in as members of their new gender. Others are committed

## Proactive Planning: Gender Transition Guidelines

to educating the public about transitioning and are eager to answer questions, and continue to talk openly about being transgender long after transition.

Work situations vary, too. The type of workforce, the nature of work being done, the amount of interaction the individual employee has with peers and customers, and the surrounding culture all have a bearing on how the transition should be handled. For all these reasons, **there is no single formula for managing transitions in the workplace.**

It is important to work closely with the employee to ensure respect for their privacy and to understand their preference on the amount of information that should be shared with the rest of the employees. It is essential that open and honest communication be established to build trust for each party. With each right, also comes responsibility or an expectation. A successful transition in the workplace can only occur with commitment and understanding of each involved party.

Control over the flow of information is very important in managing the transition process. The manner in which co-workers and clients are informed about the employee's change and the timing of this disclosure are critical in making the transition progress smoothly. Therefore, confidentiality should be a primary concern in the early stages of transition planning.

### Dealing with Customer Standards

Transgender employees who deal with customers are held to the same appearance and behavior standards as everyone else. Serving clients is no reason to deny a transitioning individual the right to dress and present in their chosen gender. Client and employee preference is not a reason to deny a transitioning person the right to dress and present in their chosen gender.

Communicating with clients may require difficult conversations so a meeting should be held with the transitioning employee beforehand to clarify how certain situations should be handled.

### Telling Co-Workers

If the transitioning employee has a people manager who has not been part of the initial conversation but will be impacted by the transition, they should be told about the upcoming transition shortly before the employee's co-workers are told.

A meeting is usually the best setting for informing co-workers, and the need for appropriately timed and respectful communication about the transitioning employee should be stressed.

This information meeting should be timed to occur a week or two **before** the transitioning individual begins presenting themselves in their new gender role. Not everyone needs to be informed; however, co-workers, managers and other employees with close contact should be included.

At this meeting, it is extremely important to reinforce **Company's** commitment to diversity and be supportive of the employee as they deal with this difficult medical issue. Clearly expressed support from executive or senior management can be very helpful. A letter or memo of support for the employee that restates the commitment to **Company's** diversity vision will go a long way to lessening the stress on the person transitioning and to avoiding potential backlash from fellow employees.

## Proactive Planning: Gender Transition Guidelines

It is also important to recognize that people's feelings about sex and gender are issues that can raise strong emotions and discomfort. While stressing to everyone that this is a medical issue, like many others, employees should be encouraged to examine their feelings and speak to the appropriate resources if necessary. HR representatives, as well as subject matter experts who are there to provide training, can be a valuable resource to draw out feelings and avoid potential situations before they become a problem.

Sometimes the employee who is transitioning wants to personally tell a few co-workers with whom they are close before everyone else is told. This is fine as long as these co-workers are asked to keep the information confidential. All other co-workers should be told at the meeting that one of their co-workers will be transitioning and who that person is. The transitioning employee can be present at the beginning and may wish to speak either personally or in the form of a letter that can be read or handed out; however, it is usually best for them to then leave so that the other employees feel comfortable asking questions or raising concerns. This disclosure meeting should also include a training component.

It is **strongly recommended** that the manager and HR representative work closely with an outside expert on transgender issues and gender transition. This expert should be at the initial meeting to answer any questions employees may have. If possible, have the expert available for 1-on-1 sessions for additional information and support.

## Managing Day-to-Day Issues in the Workplace:

### Appearance Standards

A transgender employee is permitted to dress consistently with their gender identity and is required to comply with the same standards of dress and appearance that apply to all other people in their workplace and similar position. Managers have the same right to review a transitioning employee's professional attire as they do any other employee.

If a transgender employee dresses inappropriately, this should be addressed in a manner consistent with any other employee. Dress codes requiring employees to wear appropriate clothing apply to all employees equally.

Any concerns should be addressed with the employee directly. Take care not to use personal opinions to judge a colleague's professional appearance. If the transgender employee dresses or behaves inappropriately according to the dress code, this issue should be dealt with in the same manner it would be addressed with any other employee.

### Restroom and Locker Room Access

Restroom and locker room access issues need to be handled with respect and consideration. It is **Company's** obligation to provide all employees, guests and customers adequate facility access.

**Company** policy is that employees, guests and customers are permitted to use the facilities that correspond with their gender identity. For example, a person who identifies as a man is permitted to use men's restrooms, and a person who identifies as a woman is permitted to use women's restrooms. All employees, guests and customers should determine the most appropriate and comfortable options for themselves.

## Proactive Planning: Gender Transition Guidelines

Where possible, **Company** has provided additional facilities including:

- Single-occupancy, gender-neutral (unisex) facilities; and
- Use of multiple-occupant, gender-neutral restroom facilities with lockable single occupant stalls.

Note: any employee may choose to use these options, but no one, including a transgender person, is required to.

As with restrooms, all employees, guests and customers have the right to use the locker room appropriate to their gender identity. **Company** has taken steps to provide for additional privacy in its locker rooms for those employees who desire more privacy – not just a transgender employee – but any employee who values increased privacy.

**Conversations with co-workers around concerns about restroom and locker room access are usually best handled by the training expert at the initial meeting as they have the experience to deal with the matter appropriately.** Co-workers, who still have personal concerns about sharing a restroom or locker room with a transgender colleague, should be invited to have an honest discussion with an appropriate manager or HR representative. In the long run, co-workers uncomfortable with sharing a restroom with a transgender colleague should be the ones asked to travel to a different floor or work area to use the facilities (do not ask the transgender person to go out of their way).

### Name and Gender Changes

Legal name and gender “marker” (i.e., “M” or “F” on legal identity documents) changes can sometimes take months or even years to get updated depending on the circumstances. Until then, every effort should be made to use the new name and gender marker on all documentation. (e.g. email, phone directory, company identification card or access badge, name plate, etc.) The only exception is where records must match the person’s legal name, such as on payroll and insurance documents.

Employees with a legal change of name and/or gender marker should notify HR via **(insert your company process here)**. This change should update all internal and benefits-related systems.

In everyday written and oral communication, the new name and pronouns should be used when the individual is ready.

### Using the Appropriate Pronoun

If a co-worker is transitioning and you are not certain which pronouns to use, it is always appropriate to respectfully ask them how they would like to be referred to. One way to do this is to simply say “My name is Terry and I go by he/him/his pronouns. How about you?”

In general, it’s considered insensitive to refer to someone by the wrong pronoun once you have established what the individual prefers. Transitioning employees should also be prepared to understand honest mistakes and help educate their co-workers as necessary.

Continued and prolonged use of the incorrect name and/or pronouns to refer to a colleague can be considered harassment and will be addressed under **Company’s Harassment, Discrimination & Violence in the Workplace Policy**.

## Proactive Planning: Gender Transition Guidelines

### Leave Benefits for Employees

Managers should provide sufficient flexibility to meet the individual's needs for appointments. Time off for medical appointments and procedures is to be granted on the same basis as for any other scheduled medical appointments and procedures. **Please refer to the Company Medical Leave policy found \_\_\_\_\_.**

### Medical Care & Insurance Coverage

Employees (and covered dependents) in the process of transitioning may wish to have appropriate medical care to support their transition including treatments such as hormone replacement therapy and/or gender reassignment surgery. **Company's** health insurance provides coverage for transgender care as follows:

#### **Summarize coverage here and attach summary of plan benefits to this document**

Employees who have questions or difficulty accessing coverage are encouraged to contact **Department Name & Contact Person** for assistance.

As with other aspects of a transition, plans should be discussed and communicated only with affected parties in order to manage expectations and to minimize disruption. Medical information, including surgery plans communicated by an individual, should be treated confidentially.

### Right to Privacy & Confidentiality

Transgender employees at **Company** have the right to be who they are without unnecessary disclosure of medical information or gender history. In addition, current and prospective employees who encounter problems concerning identification documentation, such as payroll and insurance forms, should feel comfortable raising those concerns with their manager or HR representative.

The transgender status of an individual is considered confidential and should only be disclosed on a need-to-know basis, and only with the consent of the individual. However, transitioning employees are encouraged to participate in the necessary education of their co-workers at whatever level they are comfortable.

### Addressing Concerns of Co-workers and Customers

The likelihood of negative reactions can be reduced by establishing a culture of appreciation of differences, providing adequate training, and treating all employees fairly.

A diverse workplace means that employees must be able to work with all kinds of people. It is not required that they "believe in" or accept an individual's right to be transgender. All employees are entitled to their beliefs, but everyone should be required to treat the transitioning employee – and every other employee – with respect and without bias. A lack of knowledge about transgender issues has the potential for creating misunderstanding and tension in the workplace.

While everyone is expected to conduct themselves in accordance with **Company's Harassment, Discrimination & Violence in the Workplace Policy**, we must also ensure that a forum is made available for individuals to express their concerns, ask questions and learn about transitioning in the workplace. It is important to always have a subject matter expert available to help in answering questions or concerns.

## Proactive Planning: Gender Transition Guidelines

### The Importance of Training & Education

In addition to a potential workgroup meeting where the transitioning employee's manager or HR representative may announce the transition, training or educational sessions for employees on transgender issues are recommended.

Training helps reduce fear of the unknown and helps promote a positive work environment for all employees. Training or educational sessions should be completed prior to the individual's transition. This provides important information to co-workers, managers and customers on what to expect when the person begins his or her transition. Establishing some level of comfort as to what the transition is and why it is happening is important for preventing future misunderstandings or issues.

### Ensuring Long-Term Success: Monitoring over Time

The difference between a moderate or an "okay" experience with transition and one that is ultimately successful for everyone involved over the long-term depends on effective and meaningful follow-up over time. If issues between co-workers are going to surface, they may not surface right away when a lot of time and attention is focused on the transitioning employee, the educational sessions and so on. Rather, issues may arise one, two, six or even twelve months down-the-road.

In some workplaces, co-workers express bias or resentment toward the transgender employee (often due to a lack of knowledge). They may express this by refusing to use the new name and correct pronouns, verbally harassing the employee or refusing to work with the employee. Sometimes, more subtle behavior such as isolating the transgender employee from meal periods or group activities takes place. Workplace gossip about the transgender person or unacceptable jokes may surface. The transgender employee may not report such behavior because they believe it may make the situation worse or result in retaliation.

Managers must be proactive in monitoring behavior toward the transgender employee and provide a way for the employee to report issues and challenges confidentially. Any harassment that is taking place should be dealt with immediately to send a clear message to all employees that this behavior is unacceptable and will have consequences for the employees involved. Gossip, unacceptable comments or jokes, and other unproductive behaviors may need to be addressed.

People who raise concerns about a transgender co-worker should be coached to differentiate personal beliefs from appropriate workplace behaviors where necessary. They will need to work cooperatively with their co-workers regardless of their gender identity and failure to do so could result in disciplinary action. The employee should also be provided with ***Company's Harassment, Discrimination & Violence in the Workplace Policy***.

### Responding to Concerns Regarding Restrooms or Locker Rooms: Talking Points for Managers

If an employee, guest or customer approaches you with concerns over sharing facilities with a transgender person, consider the following:

**Listen:** What exactly is the concern? Are they concerned for privacy or safety? If so, an honest and upfront conversation may help alleviate their concerns.

**Refocus:** Acknowledge apprehension while reminding the person that everyone needs to use the restroom and that this is about ensuring access for all. Refocus conversation on behavior: we all

## Proactive Planning: Gender Transition Guidelines

know what appropriate restroom behavior looks like. If everyone's behavior is appropriate, then there should not be an issue.

**Reinforce:** It may help to reinforce company values of respect for all employees, guests and customers noting that everyone is allowed, by company policy, to use the facilities that correspond to their gender identity. If useful, share success stories from other company experiences with transgender employees transitioning on the job.

**Remind:** If the co-worker, guest or customer is still reluctant and concerned, maintain the policy and remind them of other options. For example, the concerned person may use a restroom on a different floor or in a different area. If no other facilities are available, the person can wait for the transgender employee to exit before using the restroom.

## HR Representative Role

In addition to ensuring these best practices for managers are followed, HR representatives need to ensure that the people manager is supported throughout the entire transitioning process. Regular check-ins not only with the manager and the transitioning employee are important.

HR representatives need to work closely with the manager and the transitioning employee to ensure individual and team meetings are scheduled appropriately and the proper external support is being leveraged.

HR representative also need to keep a close 'pulse' on the business unit to ensure there are no negative issues in the workplace that are not being addressed.

Lastly, HR representatives are advised to check-in over the long term and not just during the initial transition process. Some issues may not surface until some time has passed and the initial focus on transition is over.

For external training support, contact the **senior manager for Corporate Diversity** overseeing the area for LGBTQA.

## Terminology

The following terms are 'text book' definitions. Considerations should be taken around level setting in each conversation to ensure everyone involved is using the applicable terms in the same way.

**Ally** refers to a supporter or advocate for the Lesbian, Gay, Bisexual, Transgender or Queer community. Being an ally is about using inclusive language, showing respect and support for your colleagues and in this case, members of the LGBTQ community through your actions and your words. Typically, allies to lesbian, gay and bisexual people are straight and allies to transgender people are cisgender.

**Cisgender** is a term for people whose gender identity, expression or behavior aligns with those typically associated with their assigned sex at birth. It is the accepted term for people who are "not transgender."

## Proactive Planning: Gender Transition Guidelines

**Gender**, while often used interchangeably with “sex,” refers specifically to the behavioral, cultural, psychological or social traits typically associated with one sex, rather than biological characteristics.

**Gender Dysphoria** is a medical term for the discomfort many transgender and gender non-conforming people experience from the strong internal sense that their true gender identity does not match their physical sex. This discomfort can be severe. Gender dysphoria is listed as a mental disorder in the “Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition” published by the American Psychiatric Association (APA) in 2013. Not all transgender people experience or are diagnosed with gender dysphoria.

Prior to 2013, gender dysphoria was previously diagnosed as “**gender identity disorder**” or GID, but the APA replaced the word “disorder” with “dysphoria” in the diagnostic label as it is not only more appropriate and consistent with familiar clinical sexology terminology, it also removes the connotation that the patient is “disordered” and the associated stigma.

**Gender Expression** refers to all of a person’s external characteristics and behaviors — such as clothing, grooming, mannerisms, speech patterns and social interactions — that represent or express one’s gender identity to others. 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.

A person’s gender expression may also be referred to as their “**gender presentation.**” Workplace practices should generally apply to an employee’s full-time gender presentation.

**Gender Identity**, distinct from the term “sexual orientation,” refers to a person’s internal sense of being male, female, or something else. Since gender identity is internal, one’s gender identity is not necessarily visible to others. Gender Non-conforming refers to individuals whose gender expression is different from societal expectations related to gender. Gender non-conforming, like transgender, is an umbrella term and includes people who may identify as “genderqueer,” as neither a man nor a woman, or as “gender fluid.”

**Gender non-conforming** is a term to describe 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.

**Gender Transition** refers to the process through which a person modifies their physical characteristics and/or gender expression to be consistent with their gender identity. It is important to note that gender transition is an individual and personal process, and there is no “one correct way” to transition. Gender transition may, but does not necessarily, include hormone therapy, sex reassignment surgeries and/or other medical or surgical components. The transition process may also include non-medical components such as telling one’s family, friends and/or co-workers, and changing one’s name and/or gender on legal documents such as one’s driver’s license, birth certificate and social security card.

Any physical part of someone’s transition process is generally conducted under medical supervision based on a set of standards developed by the World Professional Association for Transgender Health (WPATH) and endorsed by major medical associations such as the American Medical Association (AMA) and the American Psychological Association (APA).

## Proactive Planning: Gender Transition Guidelines

**LGBTQ** is an acronym that stands for Lesbian, Gay, Bisexual, Transgender and Queer.

**Sex** refers to the classification of people as male or female. At birth, infants are assigned a sex based on a combination of biological characteristics including: chromosomes, hormones and reproductive organs.

**Sexual orientation** describes an individual's enduring physical, romantic and/or emotional attraction to another person. Gender identity and sexual orientation are not the same. Transgender people may be straight, lesbian, gay or bisexual. For example, a man who transitions from male to female and is attracted to other women would be identified as a lesbian or a gay woman.

**Transgender** refers to people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. Transgender is a broad, umbrella term and is good for non-transgender people to use. "Trans" is shorthand for transgender." (Note: Transgender is correctly used as an adjective, not a noun or verb, thus "transgender people" is appropriate but "transgenders" and "transgendered" are often viewed as disrespectful.)

Transgender, as an umbrella term, encompasses transsexuals, genderqueers and other gender non-conforming people. Not all people who consider themselves, or who may be considered by others, as transgender will undergo a gender transition.

### About Gender Diverse and Expansive Identities:

Increasingly employees are entering the workplace with gender identities and expressions that may be different from what we most frequently think of when discussing gender. While many transgender people identify on a binary scale – as either male or female – some do not and may instead refer to themselves as "genderqueer," "gender fluid," "non-binary" or other terms. These gender expansive identities are generally considered part of the greater transgender community.

Gender expansive employees – those that do not self-identify as male or female – often challenge existing understanding and norms around gender. These employees may opt to use gender expansive pronouns such as "they, them and theirs" instead of the gendered "he, him and his" or "she, her and hers." In addition, gendered honorifics such as "Ms." or "Mr." may change to the more inclusive "Mx."

Everyone deserves to have their self-ascribed name and pronouns respected in the workplace. Just as with other transgender employees, companies should seek to support individuals in being recognized for their true selves. Where a person's preferred name does not match their legal name, the preferred name should be used wherever possible such as e-mail, employee directory, company identification, name plates, business cards, etc., except where records must match the employee's legal name such as on payroll and insurance documents.

## **Additional Resources**

**HRC – Human Rights Campaign** - The Human Rights Campaign (HRC) is the largest lesbian, gay, bisexual, transgender and queer (LGBTQ) lobbying group and political action committee in the United States. The HRC mission statement states “HRC envisions an America where lesbian, gay, bisexual, transgender and queer people are ensured equality and embraced as full members of the American family at home, at work and in every community.” [www.hrc.org/transgender](http://www.hrc.org/transgender)

**NCTE** – The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. By empowering transgender people and our allies to educate and influence policymakers and others, NCTE facilitates a strong and clear voice for transgender equality in our nation’s capital and around the country. [www.transequality.org](http://www.transequality.org)

**Parents, Families, and Friends of Lesbians and Gays (PFLAG)** is a group of family members and friends of Lesbian, Gay, Bisexual, and Transgender (LGBTQ) people. According to PFLAG’s mission statement, the organization “promotes the health and well-being of Gay, Lesbian, Bisexual, and Transgender persons, their families and friends through: support, to cope with an adverse society; education, to enlighten an ill-informed public; and advocacy, to end discrimination and to secure equal civil rights. [www.PFLAG.org](http://www.PFLAG.org)

## **Guidance for the Transitioning Employee: Developing a Plan**

We recommend creating an engagement plan to help smooth the transition process. A plan also helps reduce uncertainties and provides a common road map for everyone. The outline below will vary depending on your individual needs and situation. For example, some of this language applies to what are very binary oriented transitions – from male-to-female or female-to-male – and may be less relevant to non-binary, gender expansive employees.

**1. Get support from the people around you.** As a transitioning employee, you should try to create a support team. Try to involve your manager, HR representative and/or other supportive co-workers to work together to develop an appropriate plan for you and your business. The following is a suggested list of things to consider and discuss with your support team.

### **2. Develop a stakeholders list**

- Who are all the people in the work group you may need to engage at some point during the transition? Example, HR representative, NAME.
- When do they need to be engaged?
- Are there any specific issues that need to be addressed sooner rather than later?

### **3. Create a timeline – suggested: what are your milestones?**

- Discuss the expected timeline.
- Block out dates such as legal name change, transition milestones and other events.
- Review the stakeholder list and develop the program to allow time for education.
- Anticipated time off required for medical treatment, if known.

### **4. Things to Consider**

- How would you like your team to find out about your transition? (e.g. letter, face-to-face meeting, individual discussions, your manager/HR representative)
- Will you need to make workspace changes during the transition?
- How long do certain HR functions take? (e.g. legal name changes, company directories, etc.)
- How do you think your clients should be informed?
- When will you need to process any necessary changes to professional licenses?
- List all the things that a new employee must do during the first week of employment. How long do these normally take?
- Do a search for your current name on the company's intranet for team rosters and other references. How many of these pages will need to be altered or removed?

## Guidance for Co-Workers

The moment a friend, loved one, colleague or acquaintance makes the decision to 'come out' as transgender, is always a unique event. Understand that when someone 'comes out' to you, it is an act of trust – and that person deems you trustworthy. There is no one 'right' way to demonstrate your support — and being supportive does not require you to march in parades or become an activist. (Although you are welcome!)

### **Be as open and honest as you would like your co-worker to be with you.**

- If this is new for you -- and if you feel awkward, say so.
- Ask your co-worker to be honest with you about what you say or do, which may make him or her uncomfortable.
- Let your co-worker know if they say or do something that makes you uncomfortable.
- Ask the 'dumb questions' but also understand if the person declines to answer. Usually these questions are best asked of the external facilitator/support because they are a neutral third party and are usually happy to help both during and afterward the training is complete.
- Take the time to talk and be prepared to listen.

### **Here are some “ally” behaviors that help create an inclusive workplace:**

- Don't make assumptions about a person's sexuality or gender. Not everyone's appearance or behavior plays to stereotypes.
- Know and understand **Company's** policies on sexual orientation and gender identity: non-discrimination, harassment, domestic partner benefits, bereavement leave, etc.
- Let your co-workers know that you won't tolerate even subtle forms of discrimination or harassment in the workplace.
- Join your local **LGBTQA Employee Resource Group** network.

### **Why become an ally?**

- Make a positive impact on a fellow employee's life
- Become a better leader
- Personal and professional growth
- Personal satisfaction
- Help create a better and more productive workplace
- Career networking
- Champion and celebrate all aspects of diversity

## Section 5

# Holistic Inclusion: The Importance of Transgender Inclusive Health Care Coverage

### Need More Info?

For in-depth information on transgender-inclusive insurance coverage, removing exclusions and negotiating with carriers, please see [“Transgender-Inclusive Health Care Coverage and the Corporate Equality Index”](#) available from HRC.

Most insurance plans specifically exclude health care services for transgender individuals. Standard policies include broad, blanket exclusions for transition-related care like hormones, surgery, and counseling; as well as sex-specific care like cancer screenings and reproductive health. This is medically necessary care that is regularly provided to non-transgender people that is denied to transgender people solely because of their gender identity.

For transgender people, being denied critically necessary transition-related care extends and exasperates the stress and discomfort caused by gender dysphoria leading to increased incidences of depression and substance abuse as well as health complications caused by delaying care.

With regard to employer-provided health insurance, being denied medically necessary care is detrimental to individual health and well-being as well as to the individual's ability to contribute in the workplace. If the intention of employer provided health care is to promote a productive and healthy workforce, then providing inclusive coverage options for transition-related care helps to achieve the goal of promoting health and wellness across the spectrum of workforce diversity.

### An Increasing Trend

The [Corporate Equality Index](#) (CEI) has asked about transgender-inclusive health care coverage since 2006 and in the last ten years the HRC Foundation has, in partnership with hundreds of major businesses taking part in the CEI, led great change in employer-provided health insurance coverage for transgender people. In the 2016 CEI report, two-fifths of the Fortune 500 and 60 percent of all CEI-rated businesses specifically affirm coverage for transgender-inclusive healthcare.

**Holistic Inclusion:**  
The Importance of  
Transgender Inclusive  
Health Care Coverage

- 1  
Business  
Case
- 2  
Gender  
Audit
- 3  
Best  
Practices
- 4  
Transition  
Guidelines
- 5  
**Health  
Care**
- 6  
Business  
Culture
- 7  
Everyday  
Realities
- 8  
For  
Allies

**Growth Trend of Transgender-Inclusive Healthcare  
measured via CEI:**

<b>CEI Report Year</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
# of Companies w/ Trans Benefits	49	66	85	206	287	336	418	511
% of CEI Participants	8%	11%	14%	32%	42%	46%	53%	60%

Currently, the availability of transgender-inclusive medical benefits (60% of CEI responders) lags behind the adoption of non-discrimination policies based on gender identity (93% of responders). Considering research by the Bureau of Labor Statistics shows that benefits are valued at nearly 20 percent of an employee’s total compensation, fair-minded employers will want to negotiate for this coverage to make transgender employees “whole” with respect to their benefit packages.

The discrepancy between the employer’s desire to be inclusive, as demonstrated in the non-discrimination statement, and the availability of medical coverage is due, in some part, to exclusionary insurance practices. The vast majority of commercial health insurance plans in the United States exclude all or most coverage for treatment related to gender transition. This “transgender exclusion” denies coverage for treatments such as psychological counseling for initial diagnosis and ongoing transition assistance, hormone replacement therapy, doctor’s office visits to monitor hormone replacement therapy and surgeries related to sex reassignment. Sometimes the exclusion’s language is sufficiently broad enough to deny coverage to a transgender person for treatments unrelated to transitioning, such as for a transgender man with a broken arm. Furthermore, the insurance system is heavily reliant on a binary definition of gender, such that a transgender woman may be denied coverage for a prostate screening or a transgender man for a pap smear. Exclusions are generally found in a benefits summary plan description, which is available to all employees and applicants.

The good news is that many large corporations have removed most of the transgender exclusions from their health insurance policies and have affirmed benefits covering their transgender or transitioning employees to provide a base level of coverage for medical care, including mental health counseling, hormone therapy, medical visits and surgical procedures, and have provided short-term leave for treatments related to gender transition. Companies have had great success in removing discriminatory exclusions when they negotiate with their carriers and especially when they are able to provide a high level of information to the carrier in the process.

## Holistic Inclusion:

The Importance of Transgender Inclusive Health Care Coverage

1

Business Case

2

Gender Audit

3

Best Practices

4

Transition Guidelines

5

Health Care

6

Business Culture

7

Everyday Realities

8

For Allies

## SECTION 1557 OF THE AFFORDABLE CARE ACT



### *What Employers Need to Know*

Section 1557 of the Affordable Care Act (ACA) is the Act's nondiscrimination provision prohibiting discrimination on the ground of race, color, national origin, sex, age, or disability under “any health program or activity, any part of which is receiving Federal financial assistance ... or under any program or activity that is administered by an Executive agency or any entity established under [Title I of ACA]...”<sup>1</sup> Of particular note is Section 1557's extension of sex discrimination to include claims of discrimination based on gender identity or gender stereotyping. The section's inclusive definition of “sex discrimination” extends its protection to transgender persons.

On May 18, 2016, the U.S. Department of Health and Human Services (HHS) Office of Civil Rights issued a final rule clarifying the extent of Section 1557's nondiscrimination protections, including those for transgender persons.<sup>2</sup> The final rule prohibits denying or limiting coverage, denying a claim, or imposing additional cost sharing on any health service due to the individual's sex assigned at birth, gender identity, or gender otherwise recorded by the plan or issuer which is different from the one to which services are ordinarily or exclusively possible. Furthermore, explicit categorical exclusions for coverage of care associated with gender transition is prohibited. Denials for these services are discrimination if the denial results in discrimination against a transgender individual.

<sup>1</sup> See U.S. Dep't Health and Human Serv., *Section 1557 of the Patient Protection and Affordable Care Act*, available at <http://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html>.

<sup>2</sup> See U.S. Dep't Health and Human Serv., *Nondiscrimination in Health Programs and Activities*, available at <https://www.federalregister.gov/documents/2016/05/18/2016-11458/nondiscrimination-in-health-programs-and-activities>.

## Holistic Inclusion:

The Importance of Transgender Inclusive Health Care Coverage

1

Business Case

2

Gender Audit

3

Best Practices

4

Transition Guidelines

5

Health Care

6

Business Culture

7

Everyday Realities

8

For Allies

### **Recommendation:**

#### **Provide Transgender-Inclusive Health Insurance Coverage**

**Employers** should provide at least one firm-wide transgender-inclusive insurance policy option for employees and their dependents.

#### **Base-Level Coverage**

The base level coverage is the level of coverage required to achieve a score of 100 on HRC's Corporate Equality Index. To receive full credit, each of the below components must be in place.

- 1. Insurance contract explicitly affirms coverage.** Alternatively, evidence that any transgender exclusions have been sufficiently modified or removed, or that the insurance administrator or carrier will affirmatively provide consistent coverage utilizing a particular medical policy or clinical guideline, may be submitted to the HRC Foundation. In either case, documentation must be submitted to the HRC Foundation for review.
- 2. Plan documentation must be readily available to employees and must clearly communicate inclusive insurance options to employees and their eligible dependents.** Plan modification and regular summary plan description materials clearly indicates availability of the benefit and how to obtain additional information — including applicable medical policy or clinical guidelines that indicate specific coverage processes and accepted treatment protocols — while maintaining privacy of the individual. Plan participants should not need to request and analyze a complete and current plan contract in order to determine whether coverage is available. This documentation, including the applicable medical policy or clinical guidelines, must be submitted to the HRC Foundation for review.
- 3. Other benefits available for other medical conditions are also available to transgender individuals.** Specifically, where available for employees, the following benefits should all extend to transgender individuals, including for transition-related services:
  - a. Short term medical leave
  - b. Mental health benefits
  - c. Pharmaceutical coverage (e.g., for hormone replacement therapies)
  - d. Coverage for medical visits or laboratory services
  - e. Coverage for reconstructive surgical procedures related to sex reassignment

## Holistic Inclusion:

### The Importance of Transgender Inclusive Health Care Coverage

1

Business Case

2

Gender Audit

3

Best Practices

4

Transition Guidelines

5

Health Care

6

Business Culture

7

Everyday Realities

8

For Allies

- f. Insurance coverage of routine, chronic, or urgent non-transition services is not excluded (e.g., for a transgender individual based on their sex or gender. For example, prostate exams for women with a transgender history and pelvic/gynecological exams for men with a transgender history must be covered)
4. **Dollar maximums on this area of coverage must meet or exceed \$75,000.** Best practice is for no annual or lifetime dollar cap, but if one is in place it must meet or exceed \$75,000.

### Enhanced Coverage for the Best-in-Class Employer

While the base coverage will ensure an employer meets HRC's requirements for a perfect score on the CEI, HRC urges employers to enhance coverage that focuses on "provider-centered care" and removes additional exclusionary clauses from transgender health insurance policies to provide full and comprehensive care worthy of a best-in-class designation:

1. **Coverage available for full range of services indicated by World Professional Association for Transgender Health's Standards of Care (SOC).** Surgical procedures, including all reconstructive genital surgical interventions as well as other reconstructive procedures as appropriate to the patient, when part of the sex reassignment process as per WPATH. Examples of enhanced services include: electrolysis, facial feminization surgeries and body contouring (not an exhaustive list).
2. **No lifetime or annual dollar caps on this area of coverage.**
3. **Benefit administration covers treatment plans that adhere to the WPATH diagnostic and assessment process.** Determinations of eligibility for coverage are consistent with, and no more restrictive than, the current WPATH SOC. Since at the current moment no insurance carrier guideline clearly meets these criteria, written communication with the relevant carrier or third-party administrator made readily available to the employee as part of plan documentation should communicate that the employer plan will be guided by and be no more restrictive than the WPATH SOC in making utilization management determinations. The following phrase inserted into plan documentation can better clarify the administration process to eligible employees and dependents:

***"For the purposes of determining eligibility for coverage and subsequent payment of claims under the sex reassignment surgical benefit, services will be regarded as medically necessary for the individual and covered when providers document that the diagnostic, assessment***

**Holistic Inclusion:**

The Importance of Transgender Inclusive Health Care Coverage

*“As a talent-led business, we listened to our transgender employees about the barriers they faced in getting the care their doctors were recommending. Accenture provides comprehensive transgender-inclusive healthcare coverage for its employees and their dependents based on the recommendations of the WPATH Standards of Care, and we have enhanced our policies to provide critical care, including facial feminization surgeries and hair removal. We value all our employees and want our environment and the healthcare they receive under our plans to support their ability to be healthy and successful, both personally and professionally.”*

- Ellyn Shook,  
Chief Leadership &  
Human Resources Officer,  
Accenture

**and treatment process is consistent with generally recognized standards of medical practice. Specifically, diagnosis and treatment conforming to the current WPATH SOC, as appropriately documented by the treating provider(s), will be regarded as sufficient; additional restrictions will not be placed nor other documentation required to determine eligibility or authorization.”**

**4. Other barriers to coverage eliminated.**

- a. No separate dollar maximums or deductibles** specific to coverage of sex reassignment surgeries and related procedures.
- b. Explicit adequacy of network provisions applies.** When the provider network has no adequate specialists (as determined by qualified area specialists), out-of-network providers will be covered at in-network rates, as well as coverage of travel and lodging expenses to such specialists.
- c. No other serious limitations.** On a case-by-case basis, other serious limitations to coverage may be deemed sufficiently counterproductive to treatment success to disqualify a given plan from eligibility. Two examples: a) limitations on the time frame for, or number of, surgeries per individual would eliminate a plan from consideration (e.g., no “one surgery only” or “initial surgery” limitations); b) similarly, exclusions for reversals of sex reassignment would also be regarded as unacceptable limits to coverage.

For employers ready to close the gap on fairness and equality in health insurance coverage, HRC’s white paper [Transgender-Inclusive Health Care Coverage and the Corporate Equality Index](#) contains detailed information on the issue of health care plans, including removing exclusions and negotiating with insurance carriers.

## Section 6

# Addressing Culture: Training & Education

The difference between mere tolerance and true acceptance lies in the cultural competency of any organization and its members. Going beyond policy and practice and creating a culture of inclusion requires a commitment to integrated training programs appropriately tailored to each level of the organization.

### **Recommendation:**

#### **Build Cultural Competency through Integrated Training Programs**

To ensure compliance with employment policies, all employees should at a *minimum* have clear guidance regarding appropriate workplace behavior and the consequences of failing to comply with non-discrimination policies that include gender identity. One way to begin is to examine your workplace climate.

#### ***HRC's Climate Research Reveals Progress – But Challenges Remain***

While there have been significant increases in the number of companies prohibiting discrimination based on gender identity and expression, and the number of companies with transgender-inclusive medical benefits continues to climb, the everyday lived experience of transgender people in the workplace remains challenging.

According to [\*Injustice at Every Turn\*](#), a large-scale survey by the National Center for Transgender Equality, 90 percent of those surveyed reported experiencing harassment, mistreatment or discrimination on the job or took actions like hiding who they are to avoid it. Forty-seven percent said they had experienced an adverse job outcome, such as being fired, not hired or denied a promotion because of being transgender or gender non-conforming.

Transgender and gender non-conforming people do not insist on bringing issues of gender identity and expression to the workplace. It is unavoidable as everyone has a gender identity and expression – just as everyone has a sexual orientation. HRC's groundbreaking 2009 climate study [\*Degrees of Equality\*](#) reveals that LGBTQ people report common clues, ranging from overt negative comments to nuanced interactions with people at the water cooler — from co-workers to executives — that have an effect on their personal assessment of workplace climate and whether or not it is safe to be open. In its follow-up 2013 climate study, [\*The Cost of the Closet and the Rewards of Inclusion\*](#), HRC found that despite a changing social and legal landscape for

LGBTQ people, still over half (53 percent) of LGBTQ workers nationwide hide who they are at work. Extrapolating this conversation of workplace climate to just transgender people, employers committed to being best-in-class champions of transgender inclusion need to evaluate their workplace climate and take steps to make it more welcoming.

### WATER COOLER CONVERSATIONS

Casual, non-work-related conversations among co-workers — particularly those related to childhood, spouses, partners, relationships, family, social lives and even sex — are unavoidable. Issues related to gender identity (and/or sexual orientation) arise on nearly a daily basis at work for most employees. In these conversations, transgender employees must decide whether and how they will engage and respond.

Transgender employees asked about their childhoods must decide how much to reveal. For example, a co-worker shares about being a Boy Scout as a child and asks a trans man colleague if he was too — the trans man may have, in fact, been a Girl Scout — is this information safe to reveal? Perhaps the transgender employee will evade the question rather than risk coming “out.” Even then, avoidance or withholding send their own subtle cues and can be interpreted as “distant” or “removed,” casting a pale on the working relationship.

While these everyday conversations are important to building working relationships, they can often make transgender employees feel uncomfortable. Avoiding assumptions about how people identify and using inclusive language allows room for people to self-disclose.

### OVERT EXPRESSIONS OF BIAS

Everyday conversations and sharing of innocuous personal details are not the only factors contributing to the workplace environment for LGBTQ workers. Even when employees aren't directly part of conversations, they observe them, picking up on signals and cues as to what are acceptable, or even encouraged, behaviors among colleagues.

One of the most common ways for someone to brush off or recover from an offensive statement is to claim it was only a joke. Yet, jokes are fair indicators of culture and climate; about what acceptable behavior is, and what is fair game for mockery. HRC's climate research and report [\*The Cost of the Closet and the Rewards of Inclusion\*](#) found sixty-two percent of LGBTQ workers report hearing jokes about lesbian or gay people at least once in a while, while 43 percent report hearing jokes about bisexual people, and 40 percent specifically about transgender people at the same frequency.

Sometimes, these statements aren't shielded in mockery, but are overt expressions of bias against LGBTQ people. One in four LGBTQ respondents say they sometimes hear something negative uttered about LGBTQ people while at work and 8 percent of LGBTQ employees frequently hear someone say something negative about LGBTQ people. Similarly, jokes and

**HRC can help with your LGBTQ inclusion training needs. Please contact us at [cei@hrc.org](mailto:cei@hrc.org) for more information.**

derogatory comments about other minority groups are equally indicative of a negative climate, all of which should be addressed through appropriate HR, disciplinary or other managerial channels.

### **Building Robust Training & Education Platforms**

Education and training about gender identity can take the form of small, informal discussions and sections that are incorporated into a larger diversity training curriculum, or full-fledged training and educational programs focused solely on transgender issues conducted by outside trainers and facilitators. Communication and diversity training regarding gender identity in the workplace should be comparable to other policy announcements and training initiatives. For instance, if an employer provides online harassment and discrimination training that incorporates race and sex, it should also incorporate gender identity.

Managerial and supervisory employees should receive diversity training that includes clear examples of discrimination based on gender identity shortly after starting employment and on a regular basis thereafter. At a minimum, build education around gender identity discrimination, with appropriate examples, in to regular compliance training for sexual harassment or similar management curriculum(s). When an employee transitions at work, clear expectations should be restated for managers in the affected work group(s).

When someone transitions on the job, in-person training with the employee's managers and direct co-workers is extremely beneficial. Here, management has an opportunity to not only provide education on transgender issues but to also reiterate expectations of all employees. Ideally, training should be facilitated by someone who has strong experience with transgender issues and experience presenting these issues in the workplace.

The extent of communication and training required will be different for each audience being trained. For example, it may be particularly important to emphasize to board members, as fiduciaries of an organization, how proactive transgender-inclusive policies affect the firm's competitive advantage or mitigate risk. Meanwhile, employees who work on the same team or in the same unit as a transitioning colleague will require more background information about transgender issues and unambiguous instruction regarding expectations of behavior.

Remember to consider appropriate training for client/customer facing personnel. Store management and security personnel, for example, may require explicit training in corporate policy around restroom and dressing room policies along with specific strategies for addressing the concerns and/or complaints made by other customers.

## Section 7

# Everyday Realities of Transgender Inclusion: Concepts in Practice

### Concepts in Practice

The practical reality of creating an inclusive workplace - across all forms of diversity - is that the day-to-day experiences of employees cannot necessarily be accounted for or dependent on policy alone. Making a business more transgender-inclusive requires a 360 degree review of experiences for prospective and current employees, customers, clients and other stakeholders.

The following scenarios are examples of ways in which an individual, working team or organization as a whole may be tested when it comes to offering a fully inclusive workplace culture for transgender people and their allies.

We know from reams of employee engagement studies that the rubber meets the road in the day-to-day experiences of inclusion, job satisfaction, feeling valued - these are the qualities that retain and fully engage talent, keeping people committed and reducing turnover costs. A company may have all of the necessary policies and benefits in place to attract, for example, a valued transgender software developer, but if that individual faces daily missteps or bias in the workplace, that person may very well seek employment elsewhere.

We have deliberately not offered a “right answer” in response to these oft-seen potential challenges – and corresponding opportunities – for talent management, employee engagement and profitability. Rather, these are examples of realistic situations to which committed organizations and teams can develop their own response in alignment with their existing values, culture and business processes.

### **The Job Fair**

Richard, a hiring manager at the growing fast food chain Rise N' Shine, is at a large hiring fair in a major mid-Atlantic city. The first prospective employee approaches and asks about management opportunities. Richard knows there are only a few management openings but many more hourly cashier and kitchen jobs. He says yes there are opportunities, but the company is looking for a minimum of ten years in the food and dining industry. The applicant, a woman who introduces herself as Sara Smith, assures him that she has 12 years of experience and asks to learn more about the managerial opportunities.

In chatting with Sara, Richard is happy to discover that they are from the same hometown and he asks about where she previously worked. The conversation is congenial and also clearly intended to assess her viability as a candidate. When Sara mentions that her first seven years were at Guffaw's, a local burger chain, Richard is impressed. He knows Guffaw's regional manager and respects their training and development programs. Sara's resume includes high marks and progressive managerial responsibility during her Guffaw's experience. The conversation goes well and Richard encourages Sara to apply for the management position.

Sara is excited – Rise N' Shine is a great opportunity and the role is a perfect fit for her skills and experience. When Sara applies through Rise N' Shine's applicant tracking system she indicates Deb Dawson as her former immediate supervisor at Guffaw's and her professional reference.

Richard is pleased to see Sara's formal application passed along to him after HR screening. The standard process at Rise N' Shine is for hiring managers to receive HR's referred resumes, conduct a phone interview and then proceed to in-person interview and/or reference checks. Before calling Sara for an interview and contacting the former supervisor Deb, Richard decides to informally check in with his friend George, the regional manager at Guffaw's, for his take on Sara's performance.

Richard's surprised when his friend says that he has no idea who Sara is and that she certainly wasn't a former manager within his territory. After some prodding, George says "oh, you mean Steve Smith. Yeah that was quite a situation here. I guess if you like drama in the restaurant, then Steve - I mean 'Sara' would be great." Richard ends the call and puts Sara's application aside, moving on to the next. When his HR liaison asks about Sara, Richard says in further reviewing her application, he thinks "she is not the right 'fit' for Rise N' Shine's culture." Sara is dropped from the prospective hiring process.

### **What happened?**

Sara is a transgender woman who transitioned during and after leaving her work at Guffaw's. Sara had confided only in her former immediate supervisor, Deb, that reference checks will inquire about her experience using her new name and gender.

Richard checked first with people in his network rather than with the person Sara listed. As a result, he passes on interviewing a potential new manager with the exact experience and skills he is looking for.

### **Discussion Prompts:**

- When Richard realized Sara's transgender status based on the manager's response, what could he have done besides set Sara's resume aside?

### **Things to Consider:**

- While it is common to reach out for candidate feedback through personal professional connections and networks, research shows an over reliance on personal networks can perpetuate unconscious bias in the hiring process.
- A transgender person who has recently transitioned or is reentering the job market after a transition can be particularly vulnerable to this type of bias.
- While reference and background checks are a necessary part of the hiring process, it's important to note that they can create challenges for transgender job-seekers. Hiring managers need to be sensitive to this possibility. Whether through official application systems or via reference checks, gender, pronoun or name changes should not negatively impact an otherwise qualified candidate's prospects.
- Generally speaking vague and subjective responses in reference checks signal potential for unconscious bias. Focus reference processes on eliciting information that is as objective as possible.

### **Best Practices**

- Coach hiring managers and people conducting background and reference checks to be sensitive to name changes.
- To mitigate bias in the referral and interview processes, use standardized questions and focus on desired skill sets to evaluate candidates.
- Take [HRC's Gender Identity and Gender Expression Workplace Review](#) to uncover where gender-related information enters your hiring cycle.
- See the scenario "[Everyday Paperwork and Forms](#)" for more tips on background checks.

### **At the Printer and Around the Office**

Gabriella and Mia are both rising financial advisors at True North LLC. They have worked closely together with several key clients over the course of 15 months and have become good friends. During their first month of working together on a high profile client, Mia let Gabriella know that she is transgender and is pondering telling others at True North but wants to talk to HR and their supervisor first. Gabriella has been a supportive confidante. Gabriella and Mia share an assistant, Gerard.

The two travel twice a month together to see clients. Gabriella knows that Mia has not yet been able to change her legal name and gender marker on her driver's license and other identity documents. To protect Mia's privacy, Gabriella opts to have each of them book their own travel and not involve Gerard – even though booking travel is part of his regular responsibilities.

Gabriella and Mia are in back-to-back meetings before returning to their offices to grab their luggage and tickets before rushing to the airport. Mia is surprised to find her ticket in a folder on her desk. The ticket has her legal name on it. Gerard had found the tickets on the printer and left them in each of the women's offices. Flustered, Mia says thank you and she and Gabriella rush out.

When they return from the trip, Mia is troubled by the sense that her co-workers are talking about her behind her back. She cannot put her finger on it but conversations seem to be in hushed tones and then disperse when she approaches. Cassandra, Mia and Gabriella's supervisor, has observed a change in Mia's usually sunny demeanor and she seems distracted at work lately.

Both Gabriella and Mia are suspicious that there is office gossip related to Gerard discovering Mia's legal name. They decide it best to have Mia talk to Gerard about what he saw on the ticket. Gerard says he did not notice and, unable to make much eye contact, excuses himself and cuts the meeting short.

Mia is anxious about the changes in the office dynamics immediately following Gerard's discovery and concerned her privacy has been violated.

#### **Discussion Prompts:**

- What should Mia do next?
- What, if anything, did Gerard do wrong? Would sharing newly found information about Mia's name and presumed gender history constitute gossip?
- What is difference between idle chit-chat and gossip? Ask yourself: is it something you would say in front of the person? Is it meant to stir conflict?
- You are the HR representative assigned to Mia's workgroup and she comes to you with this situation. What do you say and/or what action(s) do you take?

### **Things to Consider:**

- Prior to a legal name change, a worker's legal name comes into play in a variety of common workplace interfaces such as payroll documents and benefit enrollment. While most companies can facilitate use of preferred names in many places, there are a few functional areas that require legal names.
- Training for management and administrative staff charged with sensitive data should address best practices related to employee respect and privacy.
- Not all transgender people will want to discuss their gender history in the workplace. Transgender status is a confidential and private matter. Although it may be necessary for some people to know - for example, in the case of an on-the-job transition - care should be taken not to share confidential information beyond what is required.
- Gossip, backbiting and hearsay negatively affect many workplace climates. Gossip about gender history, like other forms of gossip, has the potential to create real disruption and harm. Cultivate a culture that rejects gossip.
- Ask yourself: why am I bringing someone's gender history up? Even when we have the best intentions, for example, we want to celebrate the company's commitment to LGBTQ inclusion by telling a story of how the company supported a transgender colleague, it is not our place to reveal a colleague's transgender status without their express permission.
- There are many reasons someone may not tell their colleagues that they are transgender. Perhaps it doesn't fit their self-identity - meaning they identify as simply a man or a woman. Maybe they are apprehensive about discrimination or even violence; or, maybe they are on a personal journey for themselves and not wanting to talk yet. Whatever the reason, being "out" about one's transgender status or gender history should be self-determined.

### **Best Practices**

- Make sure the importance of privacy and confidentiality is included in training on gender identity awareness and inclusion. Specifically note that a person's transgender status is confidential information.
- If you know a colleague is transgender, check with them before sharing their transgender status with others. How "out" someone wants to be should be self-determined.

### **He, She, They?**

At Powell & Treat LLP, new attorneys are welcomed to the firm at a variety of events including formal meetings, lunches and happy hours. Members of the firm receive a helpful newsletter with the background of each new attorney. It is a mid-sized firm that encourages a sense of community amongst the staff and attorneys. Every new attorney has a paragraph describing their background before joining and most alternate between referencing the attorney by name and by pronoun, e.g. “Barbara joins... She was on the legal review ...”

One attorney, with a legal name of Elizabeth Quinn, is described as “Quinn” and uses the pronoun “they” in the draft they provide for the newsletter. The office manager assumes this is a mistake and decides to revise the piece to read “she” interchangeably with “Quinn.” Quinn, an otherwise outgoing person in the interviews for the firm, is unusually quiet. Quinn also says that happy hours and lunches are too distracting and opts out of several meet and greet events. The other attorneys assess that Quinn may be extremely introverted and they hesitate to reach out or discuss early mentoring opportunities.

### **What happened?**

Quinn self-identifies as genderqueer and does not want to be referred to as “he” or “she” but rather “they” in conversation and in writing. Because the change was made to the introductory bio without consultation with them, Quinn feels uncomfortable correcting the pronouns. Quinn is not even through the first week and has begun to question whether they made the right choice in joining Powell & Treat.

### **Discussion Prompts:**

- What could have happened differently to allow Quinn’s identity to be recognized and honored in this context?

### **Things to Consider:**

- Remember that not everyone identifies as solely “male” or “female.” Genderqueer, gender fluid and non-binary identified people may identify across the spectrum of maleness to femaleness.
- Allow people to self-identify wherever possible.

### **Best Practices:**

- Raise awareness by including education about non-binary identities, including definitions and workplace scenarios, in your non-discrimination training on gender identity.
- Take [HRC’s Gender Identity and Gender Expression Workplace Review](#) to uncover the intersections of gender in your workplace forms and procedures.
- See HRC’s resource [Talking About Pronouns](#).

### **The “T” in your LGBTQ Employee Resource Group**

Jordan, an out transgender man is well-liked and respected by his LGBTQA employee resource group (ERG) peers at Wellington, a metal manufacturing company. He has recently been voted to chair the programming committee of the group and they are looking at themes for events leading up to June Pride month. The ERG wants to devote more time and resources to transgender-specific programming but so far Jordan is the only out transgender person in their region. While Jordan does not mind sharing his own story of coming out while working at Wellington, he thinks it is important to bring in other faces and voices. In order to open the dialogue about greater transgender awareness, Jordan and the ERG decide to have a film and discussion event – they’ll screen a popular movie about coming out as transgender followed by a panel with Jordan, the film’s producer and a local LGBTQ advocate.

During the Q&A for the film event, a co-worker named Vince comes out as the proud dad of a transgender son in college. Vince shares a powerful story of how the first time he heard about transgender people was during inclusion training at Wellington. Then, fifteen months later when his son came out to him and talked about transitioning, Vince remembered the company resources from the training. Vince read through the suggested resources in Wellington’s Gender Transition Guidelines and was able to be more informed and supportive with his son.

Jordan and the ERG leaders follow up with Vince and invite him to the next ERG meeting. There they discuss launching a campaign called, “It matters to me” in which employees – allies and LGBTQ – wear buttons and are featured in company blogs and posters around Wellington, each with a short statement about why transgender equality matters to them.

### ***What happened?***

The ERG understood the importance of showcasing authentic transgender and allied stories while creatively engaging external contacts to increase transgender visibility at Wellington. The ERG could have continued to have Jordan featured as the centerpiece of its transgender programming thereby limiting the narratives told and quite possibly “burning out” Jordan as an effective advocate.

### ***Discussion Prompts:***

- Does the company ERG engage in programming across a spectrum of LGBTQ identity?
- Consider whether the job of representing under-represented identities - such as bi-identified people or transgender people - falls unfairly on the shoulders of the one or two open people in your group. If it does, brainstorm new ways to bring awareness and education across the full spectrum of LGBTQ identities.

### **Best Practices:**

- Stay creative in engaging LGBTQ employees and Allies.
- Challenge members to expand the network through “BYOA” (Bring Your Own Ally) lunches or other creative events.
- Launch sustained campaigns for under-represented groups in the ERG.
- If necessary, look externally to the greater LGBTQ community for content. Some ways to bring fresh and diverse perspectives to your members include:
  - a film series
  - a speaker from a local LGBTQ community group
  - a book-based discussion

### **Barriers in Benefit Access**

Joe is a transgender man who works as a Machine Operator at Fairland, an automotive parts manufacturer. Fairland, a CEI 100 company, offers transgender-inclusive health care coverage in the company-wide PPO plan.

Joe has made the decision, with his doctor's guidance, to seek gender affirming surgery. He's excited because he knows the procedure will be covered as medically necessary care per the plan. When Joe calls Whole Health, the plan's third party administrator (TPA), to go over the details of his coverage he's dismayed to hear the customer service representative say that the gender affirming surgery he seeks is excluded from the policy. Understandably, he's confused and upset. Joe goes to HR for help.

The Fairland HR team jumps right in, calling Whole Health to sort out the problem. It seems Whole Health's customer service representative was mistaken. Joe is relieved and excited. To make things easier moving forward, Fairland's HR person gets the name of a dedicated customer service rep for Joe to work with.

The next day Joe calls Whole Health and speaks to the dedicated service rep who offers to help him navigate coverage. Joe wants to limit his out-of-pocket expenses, so he looks for a surgeon trained in providing the specific procedure he needs that is in the PPO network but cannot find one. It seems all of the country's surgeons experienced with transgender-specific care and this procedure are out-of-network. The rep confirms this for Joe and notes he will need to pay the higher deductible and co-pays for the out-of-network surgeon.

Joe is stressed. He's budgeted only for the in-network level of expenses.

### ***What happened?***

Joe encountered two common challenges in accessing transgender-inclusive insurance coverage:

1. While coverage for transgender care has grown substantially, it is still new for some TPAs and insurers. In Joe's case, Fairland's TPA Whole Health has gaps in the training and knowledge level of some of its service representatives. This resulted in Joe getting the wrong information.
2. Further, Whole Health, like many insurers and TPAs, faces a shortage of trained providers for aspects of transition-related care and has not been able to contract sufficient providers for its "in-network" lists. Joe was effectively "shut out" of the cost effective option of choosing an in-network provider.

### ***What could have happened:***

Because many plans do not cover transition-related services, Joe could have stopped after his first call to Whole Health and resigned himself to the idea of not getting coverage. Without access to the medical care he needs, his morale, productivity and engagement could have suffered.

### ***Discussion Prompts:***

- Are your company's TPA representatives well-trained in the provisions of your policy with respect to transition-related coverage? If not, how can you facilitate better customer service for your employees?
- Does your company's TPA allow for out-of-network exceptions?

### ***Best Practices:***

- Employers should work with their TPAs to ensure properly trained service representatives for their employees. Many companies have the TPA set-up specific "concierge-type" desks to handle customer service for their transgender employees and their covered dependents.
- Employers should work with their TPAs to ensure employees/covered dependents can access out-of-network exceptions whenever trained providers are not available in-network.

### **Everyday Paperwork & Forms**

Sue, a transgender woman, has applied for a highly specialized job at Secure Force, a leading company in her field of defense contracting. She has done her homework by reviewing the company's [Corporate Equality Index](#) score. She knows the company is committed to diversity and includes gender identity in its non-discrimination statement.

Secure Force is looking for a highly specialized skill set for this position. They have run an exhaustive search to find Sue, whose experience and skills are the best fit. It's been a long and expensive search and she's their first choice candidate.

Sue has made it through the initial screening and she is now at the final screening stage. The hiring manager gives Sue a background check form to complete. While Sue has already legally changed her name and gender marker on many forms of identification, the form asks for "all prior legal names." To top that off, they want to confirm Sue's military service record, which is in her former name.

Suddenly, Sue is unsure and uncomfortable. In completing the form Sue will disclose her gender history and, effectively, her transgender status.

#### **What happened?**

Sue, like many transgender people, has changed some of her identity documents and past records - but not all. Some records can be impossible to change, others have a very high barriers to change (for example, requiring surgery in order to change).

#### **What could have happened?**

Sue, anxious about revealing her status, could have decided to withdraw her application. Secure Force would have lost its number one candidate and would have to resume their search process - incurring additional expense and delays in filling the role.

#### **Things to Consider:**

- Companies can help alleviate Sue's hesitancy by reiterating their commitment to diversity and inclusion throughout the recruitment process. For example, a cover sheet accompanying the background check form that restates the non-discrimination policy and clearly notes that prior names will be treated as confidential employee information signals a clear commitment to an inclusive and welcoming environment.

### **Best Practices:**

- Be aware of barriers to name and gender marker changes. Understand where legal names and gender markers come in to your processes and seek ways to accommodate and/or support transgender people. (Tip: use [HRC's Gender Identity and Gender Expression Workplace Review](#) to highlight the intersections of gender and workplace processes).
- For potential hires, signal clear commitment to nondiscrimination on the basis of gender identity and/or gender expression throughout the recruitment process.

### **Breaking the Binary: Genderqueer in the Workplace**

Bobby is a genderqueer identified person who regularly mixes their gender presentation across what is traditionally considered masculine and feminine. Their clothing, accessories, facial hair, make-up, etc. reflect both genders. Bobby prefers the pronouns “they/them/theirs.”

Bobby's job requires a lot of customer interaction at the bank. Bobby's counterpart, Sue, goes to their supervisor and says that she “has no problem” with all kinds of people working at the bank - but feels that Bobby's appearance is “distracting” to her work and to customers.

The supervisor knows Bobby well. She knows that Bobby is genderqueer and even worked with them when they began to fully express themselves at work. The supervisor knows that Bobby's dress, conduct and customer service all meet company standards and expectations.

The supervisor reiterates the non-discrimination policy to Sue, telling her that the company is committed to a workplace free from discrimination and harassment.

### **Discussion Prompts:**

- Consider this scenario in your place of work. How do you think your management staff would respond?.

### **Things to Consider:**

- As more people identify as gender fluid, gender expansive or genderqueer our workplaces need to consider how we make room for these people to show up authentically. This requires an open mind to trying things differently if necessary.
- Not all gender fluid people are the same. Sometimes gender fluidity is more of an expression than an identity - meaning, the person's expression changes day-to-day but their name and pronouns do not. If someone is coming out to you as gender fluid, it's best not to assume anything and to let them describe what that means for them.

- People who express themselves in a non-binary way may face challenges if the dress code is highly gendered. Examine dress codes for unconscious bias - is there a material reason for the gendered practice or can more flexibility be accommodated?
- Categorizing people as “unprofessional,” “a distraction” or “a bad fit” can be code to hide unconscious bias. Force yourself and other managers to look beyond these catch phrases and provide material feedback on employee performance.

### **Best Practices**

- While this is somewhat newer ground and best practices are emerging, certain tenets hold: always treat people with respect and endeavor to create spaces where all people feel welcome and valued.
- Examine policies - such as dress codes - for hidden bias and correct as necessary.

### **Clever Marketing or Anti-Trans Punchline?**

IGlass is a prescription glasses company with lagging sales. Every team in the company is under pressure to come up with new ideas to get the profits back on track by reaching new markets.

In a strategy meeting, the marketing team starts volleying around more edgy, provocative ideas for ads that will get attention. One of the ideas that goes to market is a television ad in which a striking, model-esque woman walks into a coffee shop and catches the eye of a good-looking man in his 30s who is working on his laptop in the back of the coffee shop. The lighting is dream-like, with slightly blurry images and the music playing is “Love is in the air.”

A moment later, the woman walks towards the door, coffee in hand and the man rushes to catch up with her. He taps her on the shoulder and says “excuse me” and she turns around. At this point in the ad, the dreamy lighting and music stops abruptly with a record scratch.

In focus now, the woman is taller than the man, has a five o’ clock shadow on her cheeks and is broad shouldered. The woman smiles and in a traditionally masculine voice, says “hi.”

He looks horrified and then the voice over relays IGlass’s new slogan “life is full of surprises, your ability to see clearly shouldn’t be one of them.”

After the ad airs, advocates from LGBTQ and women’s groups call on IGlass to apologize and pull the offensive ad. The marketing team is dumbfounded

since the company is generally thought of as an inclusive company. IGlass has gender identity protections and has sponsored a local LGBTQ homeless shelter's charity dinner for five years in a row. The company finds itself in a PR crisis and the marketing team is genuinely surprised that the ad was not taken as intended – a fun, possibly provocative way of connecting with customers.

### ***What happened?***

IGlass makes headlines but for all the wrong reasons. The inclusive reputation the company built over the years goes by the wayside as their Communications team is deluged with questions about the possibility of boycotts and criticism from key civil rights groups.

### ***Discussion Prompts:***

- Ask yourself, is this scenario a possibility within your company? If so, what could be changed to help mitigate such a risk?
- A good joke can be an important hook to a successful advertising campaign but not all jokes are created equal. Whether told through an ad - or over casual conversation at the water cooler - how does your company elevate awareness and understanding around what is fair game for humor and what is out-of-bounds?

### ***Things to Consider:***

- Question whether or not a joke depends on humiliating or exploiting an entire group of people in order to be funny – both in day-to-day conversations and in ad campaigns. Humor can be edgy and provocative without causing great harm.

### ***Best Practices***

- Ensure training and educational efforts on diversity and inclusion extend to all departments.
- Connect authentically with the LGBTQ community through your ERG as well as local and national LGBTQ and Ally organizations to understand the current landscape of experiences, laws and issues that affect your LGBTQ employees and consumers.

### **Frozen Out**

Leon is a transgender man who works in a frozen food manufacturing plant. He transitioned from female-to-male on the job about 4 months ago. As his manager your assessment is that, so far, things have gone very smoothly and Leon's co-workers seem genuinely ok with his transition.

You, however, notice Leon is quieter in team meetings and overall seems a little disengaged. You're a little concerned that his performance may start to decline. You decide to meet with Leon to check in.

Leon reports that things just aren't the same since he transitioned. People are friendly enough but generally keep their distance. For example, they never ask him to go bowling with the group anymore.

You decide to follow up with Shane, a well-respected and trusted floor supervisor. Shane reports that mostly people are ok with Leon and his transition but are a little uncomfortable at the same time. In fact, Shane says that he personally is supportive but afraid of saying or doing the wrong thing – and inadvertently hurting Leon's feelings. Shane says he just doesn't know where to start...

### **What happened?**

Often people who mean well - but are uncomfortable - will withdraw rather than risk saying or doing the wrong thing. Shane (and presumably other co-workers) have good intentions but feel awkward. Leon feels isolated and disconnected from the team.

### **Discussion Prompts:**

- One colleague reports that they are having a hard time remembering to use the right name and pronouns when referring to Leon. What would you do to help coach that employee?
- Changing up part of this scenario, let's say Leon reports that one colleague continues to repeatedly use his former name and pronouns to refer to him. Leon is visibly upset by this. How would you proceed?

### **Things to Consider**

- Managers can help by coaching employees to treat their transgender colleagues as they always have – for example: if you had lunch with Leon every Monday before transition, than continue to have lunch with Leon every Monday after transition!
- Set an example by actively modeling inclusive behavior.
- Using the proper name and pronouns is as much a matter of habit than anything else. Set your mind to the task of learning a new habit - practice makes perfect! Using a colleague's new name and pronouns can usually become second nature after a short period of concerted effort.

- Managers can facilitate answering questions or providing other support, such as arranging for an outside trainer, so that colleagues can feel more comfortable.

#### **Best Practices:**

- Use the preferred name and pronouns to refer to transgender colleagues. Consistent use of the wrong name and pronouns is not only alienating and hurtful; it may also be grounds for a discrimination claim.

## Key Factors Driving Success of Transgender-Inclusion Efforts

As with any workplace initiative, it is helpful to understand the key factors driving successful transgender-inclusion efforts. When it comes to diversity and inclusion, whether for gender identity or for any other category, key factors driving success include clear and consistent executive support, culturally competent management, engaged employee resource groups and robust communication strategies.

### Executive Support: Leadership from the Top

Successful diversity and inclusion initiatives require a top-down approach. CEOs, board members and C-suite executives who are enrolled in diversity initiatives and openly support them send a clear message that diversity is a core value. Furthermore, executive sponsorship helps to ensure that necessary resources are allocated to build managerial support across all levels and business units of the organization. These leaders should be visible at the employee networks LGBTQ events and need to be able to talk comfortably about LGBTQ workplace initiatives.

Make sure your transgender-inclusion efforts have an executive sponsor, and preferably not just someone from the Diversity and Inclusion or HR offices.

### Culturally Competent Mid-Level and Frontline Management

Mid-level and frontline managers set the tone for what constitutes acceptable daily workplace behavior. Best-in-class employers should ensure that mid-level managers are fully equipped to create productive work environments for everyone via thorough cultural awareness and competency training.

Managers should receive training on issues affecting their transgender and gender nonconforming employees to increase their awareness and sensitivity. Equally important is training on how to recognize discriminatory behavior and how to address employees who are less than supportive of their transgender and gender nonconforming colleagues.

### The Role of Resource Groups

LGBTQ employee resource or affinity groups can have a strong influence on the success of any targeted efforts for transgender inclusion. Groups that regularly highlight transgender concerns, include transgender programming and have lesbian, gay, bisexual, transgender and queer members who actively work as allies for transgender-inclusive policies help solidify both the group's and the company's commitments to transgender and gender non-conforming people.

**HRC can help with your LGBTQ inclusion training needs. Please contact us at [cei@hrc.org](mailto:cei@hrc.org) for more information.**

### **Communication Strategies**

Companies should use effective communication strategies to send consistent messages of transgender inclusion. All communications around diversity and inclusion efforts should include references to efforts on gender identity and gender expression. Utilizing blogs and social media to highlight transgender-inclusive policy or actions can send a powerful message of support and commitment.

Remember the power of story-telling in your communications plans. Uplift powerful narratives of transgender and gender non-conforming people inside and outside of your company to help create connection and reduce bias.

## Section 8

### Especially for Allies

When a friend, loved one, colleague or acquaintance makes the decision to 'come out' as transgender, they may be apprehensive about your response. Understand that when someone 'comes out' to you, it is an act of trust – and that person deems you trustworthy. There is no one "right" way to demonstrate your support – and being supportive does not require you to march in parades or become an activist. (Although you are welcome to!)

An ally is someone who does not identify as lesbian, gay, bisexual, transgender and queer (LGBTQ) but who is supportive of LGBTQ individuals and the community, either personally or as an advocate. Allies to the LGB community typically identify as "straight." A straight or LGB cisgender person – cisgender refers to someone whose gender identity or expression aligns with those typically associated with the sex assigned to them at birth – can be an ally to the transgender community.

Here are some tips for being an ally to transgender people:

- 1. Be open.** You may not know a lot about transgender people, but be open to learning.
- 2. Educate yourself.** Take responsibility for learning about the transgender community and the issues it faces. You can find resources at [www.hrc.org/transgender](http://www.hrc.org/transgender).
- 3. Know the vocabulary.** Understand definitions of gender identity and sexual orientation as well as other key concepts and vocabulary. Knowing the language signals your support and allows you to speak comfortably with transgender people and knowledgeably advocate on their behalf.
- 4. Challenge yourself.** We all have conscious and unconscious biases. Take a personal assessment of your thoughts, feelings and attitudes towards transgender people. Cultivate self-awareness even if it's uncomfortable.
- 5. Be supportive.** Let your transgender colleagues know you are there to support them. If you aren't sure how to be supportive, just ask. Say: "I consider myself an ally and would like to support you but I am not sure how. Can you tell me how I can help or where I can go to learn more?"
- 6. Be inclusive.** Don't assume that all your friends and co-workers are cisgender. Or that their children are cisgender. Someone close to you could be looking for support - not making assumptions will give them the space they need.

## Especially for Allies

7. **Mentor and sponsor transgender employees.** Many leaders tend to mentor those who are “like” them. Branch out – be a mentor to a transgender colleague and foster their professional development.
8. **Speak up.** If you overhear an unfriendly comment or joke about transgender people in your workplace, let others know that’s not ok with you personally, and that it is against company policy.
9. **Advocate for change.** Transgender people face social and legal challenges such as lack of employment protections. Know the issues and how you can help create change.
10. **Lead with your ally-ness.** Storytelling is powerful. Share your story - tell people why you are an ally and why this conversation is important to you.

At HRC, we know the ability to comfortably talk about the issues is necessary to break down bias against transgender and gender non-conforming people. That’s why we urge you to start the conversation about transgender inclusion in your workplace. To begin, assess your starting point.

### Assessing your Starting Point

Whether you are transgender, personally invested in transgender inclusion or just hoping to become more fluent and visible in your support for equality, assessing your own feelings and predispositions about transgender inclusion is a critical first step.

Use these questions as prompts for a “personal review” of your familiarity and comfort with transgender inclusion:

- What is my transgender inclusion story? Why is it meaningful to me?
- When I think about transgender people, what is the first thought that comes to mind?
- Have I had any concrete experiences advocating for greater transgender awareness for myself or others in the workplace? My personal life? How did this go? How did it affect my own sense of possibility with regards to transgender inclusion?
- What messages do I hear in my community (family/friends, workplace, media, etc.) about transgender people? Do I agree or disagree? Do I feel comfortable talking about transgender topics in work or social settings?
- How do I think I/one can show support for transgender co-workers?

## Start the Conversation about Transgender Inclusion in your Workplace

Consider these conversation starters and thought-provoking questions on transgender workplace inclusion.

These are not meant to “test” your knowledge but more to invite a dialogue and learning experience for everyone. You can use these to take a personal inventory of your experience with transgender inclusion – or as conversation starters with your ERG, D&I team or other work groups.

**How does our LGBTQ employee group or network specifically welcome transgender co-workers?** Do we have openly transgender members? Planned programming specifically on transgender inclusion?

**What constitutes transgender allyship?** Ask yourself this question or discuss on a group level. To go to a more personal level, ask your openly transgender friend exactly how you can be a good ally to them.

**If I witnessed a colleague being inappropriate to a transgender or gender non-conforming customer/client, I would \_\_\_\_\_.** If a colleague made an inappropriate comment or joke about a transgender or gender non-conforming co-worker (or transgender people, generally) in my presence, I would \_\_\_\_\_.

**Imagine you are representing your company at a college job fair.** How would you communicate your diversity & inclusion efforts – including efforts around transgender inclusion – to prospective applicants?

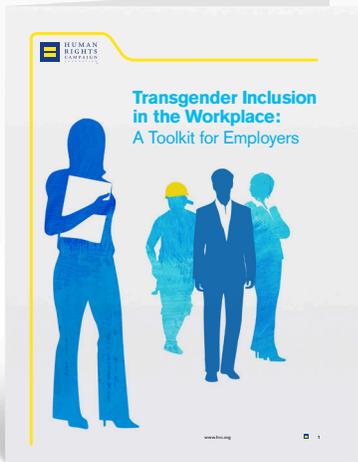
**My company actively engages with, or supports, the transgender community by \_\_\_\_\_.**

**Have our executives spoken specifically about transgender inclusion?**

**What would it mean for the company to become more inclusive and open to transgender employees?**

Visit our website to [download a worksheet version](#) of this section.

Credits



**Transgender Inclusion in the Workplace: A Toolkit for Employers**

is based in part on the HRC Foundation's *Transgender Inclusion in the Workplace: A Guide for Employers*, 1st and 2nd editions, copyrights 2004 and 2008 respectively.

**Deena Fidas and Beck Bailey, Authors**

**HRC Foundation's Workplace Equality Program** is a nationally recognized source of expert information and advice on lesbian, gay, bisexual, transgender and queer workplace issues. It provides decision makers with cutting-edge research, expert counsel, online resources, best practices information and on-site training and education. Program staff serves as trusted consultants to diversity professionals and other executives seeking to position their business as welcoming workplaces that respect all employees, regardless of sexual orientation and gender identity. The Workplace Equality Program also makes available the expertise of the HRC Business Advisory Council for invaluable peer-to-peer advice.

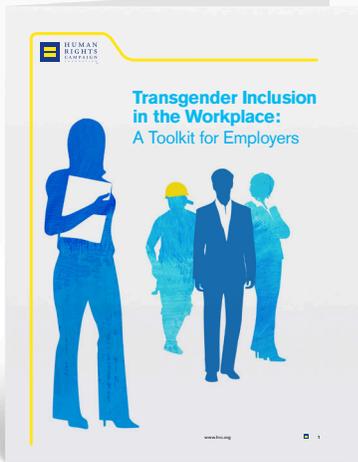
**Deena Fidas**

*Director, HRC Foundation Workplace Equality Program*

Deena Fidas directs the Workplace Equality Program at the Human Rights Campaign Foundation. She leads the annual Corporate Equality Index survey and report of over 1,200 major employers' policies, benefits and practices for LGBTQ workers. Fidas consults directly with hundreds of Fortune 500 and other major businesses on the implementation of equitable policies and benefits for diverse employee populations. Most recently, Fidas helped HRC expand the work of the Corporate Equality programs to include global LGBTQ workforce best practices. In this capacity, she has conducted trainings in the U.S. and abroad on workforce diversity and best practices for inclusion before corporate and public sector audiences.

She also leads the Human Rights Campaign Foundation's published research on the experiences of LGBTQ workers nationwide, the largest conducted to-date, finding that roughly half of all LGBTQ employees remain in the closet at work. Fidas has been a featured guest on various programs including the Diane Rehm Show, On Point, CNN Money, Marketplace, Quest Means Business and dozens of print media including Associated Press, The Wall Street Journal, Forbes, Fortune Mexico's Reforma and other news outlets. Prior to joining the Human Rights Campaign in 2007, she worked in fundraising for the American Civil Liberties Union and Hillary Clinton for President, among other clients. Fidas holds a master's degree in sociology from American University in Washington, D.C., where she also worked as a researcher for the university's Women & Politics Institute.

Credits



**Beck Bailey**

*Deputy Director of Employee Engagement, HRC Foundation Workplace Equality Program*

Beck Bailey is Deputy Director of Employee Engagement in the Workplace Equality Program at the Human Rights Campaign Foundation, where he focuses on helping workplaces become more LGBTQ inclusive through employee engagement, training and education. Bailey regularly supports corporate stakeholders – from executive leadership, to human resource and diversity & inclusion professionals, to employee network leaders – in building greater LGBTQ-inclusion through public speaking, facilitated workshops, customized training and in one-on-one consultation. Bailey also conducts outreach to engage corporations in deepening their impact by supporting legislative action to create workplace protections for LGBTQ people.

Prior to joining the Human Rights Campaign in 2014, Bailey spent 25 years in the private sector in operations and change management roles. A lifelong LGBTQ advocate and out transgender man, Bailey often speaks about his personal journey as a way to increase awareness and understanding. He proudly serves on the board of directors for GLBTQ Legal Advocates and Defenders (GLAD). Bailey holds a BS in management from Virginia Tech and an MBA from the Isenberg School of Management at UMass Amherst.

**Liz Cooper**

*Associate Director, HRC Foundation Workplace Equality Program*

Liz joined HRC in August 2010. As Associate Director, Liz engages directly with employers to identify and improve policies and practices affecting LGBTQ employees. Cooper brings her background in sales marketing research to develop the Program's resources on LGBTQ diversity and inclusion best practices aimed at employers, employees, and consumers. She has a special focus on engaging new businesses to participate in the CEI survey, and oversees the annual Buying for Workplace Equality Guide. In her five years at HRC, Cooper has enlisted the support of dozens of major businesses for pro-equality public policy across the country. She also uses her advocacy to elevate the role of allies in the LGBTQ community. Cooper holds a BA in Political Science from Davidson College in North Carolina and is currently pursuing an MA in Writing at Johns Hopkins University in Washington, D.C.

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## HRC Business Advisory Council

The Human Rights Campaign Business Advisory Council was founded in 1997. Members provide expert advice and counsel to the HRC Workplace Equality Program on lesbian, gay, bisexual, transgender and queer workplace issues based on their business experience and knowledge.

- 1 Business Case
- 2 Gender Audit
- 3 Best Practices
- 4 Transition Guidelines
- 5 Health Care
- 6 Business Culture
- 7 Everyday Realities
- 8 For Allies

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