

# Fair Workplace Project

## Gender Identity and Employment

### Supplemental Materials

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## What Makes a Fair Workplace for Gender Identity?

As a participant in the Fair Workplace Project and according to all applicable laws, your company is asked to:

1. Adopt and implement a non-discrimination policy that includes gender identity and notifies all employees of this policy (see enclosed sample policies).
2. Respect employees on a daily basis:
  - ensure that all employees have access to bathrooms, locker rooms, and other facilities that are appropriate to their designated gender
  - support consistent use of each person's chosen name and pronouns
  - adopt dress codes that allow all employees to dress in clothes appropriate to their gender identity as well as the work environment
  - work individually with each employee to ensure that the management structure addresses their individual needs. This includes respecting their need for confidentiality or openness about their gender identity and participating in individually-appropriate plans for workplace transitions
  - address oppressive comments or situations directed at employees
  - provide adequate time off work for employees having sex reassignment and related surgeries (required time may vary from a few days to several weeks depending on the type of surgery and physicality of their job duties—required time can often be verified by the physician or surgeon; family leave laws should apply).

Additional steps your company can take to support employees in the workplace are:

- Change company forms to be gender inclusive and use inclusive language, for example provide a write-in space rather than “M” and “F” boxes on employment application forms when asking an applicant’s sex. Even better, remove this question when it isn’t necessary information.
- Incorporate gender identity issues into diversity trainings.
- Inquire of your health insurance provider the steps necessary to cover the basic health care, hormonal and surgical procedures many gender identity protected employees need.
- Contact Basic Rights Oregon to offer your company's name or resources to future efforts to protect the rights of gender identity protected employees in Oregon.

## **A Sample Approach to Transitions**

The main guiding point for employers in creating a safe and fair workplace for gender minority employees is to respect the decisions of each employee regarding their self-presentation. Some people may want their gender identity to be confidential, while others may want your assistance in informing all employees of their identity. Some employees will be fully transitioned when they arrive at your business, while others will transition while they are employed by you. Other gender minorities do not transition at all. This variety of needs is why management should respect the judgment and needs of each employee.

Below is an example of how management can facilitate an on the job transition. This model can be applied whether an employee is only changing the pronouns they use at work or is in the process of surgical transition accompanied by name, pronoun, and dress changes. But remember, not all employees will want a public announcement.

### **Transitions in the Workplace**

A gender transition is the process by which an individual changes their presentation and expression to align with their gender identity. This may include a name change, pronoun change, and hormonal and/or surgical modifications. Transition is an individual process that can include any or all of these changes.

When an employee of your company advises you of their intention to transition, the following guidelines will assist in providing a safe and supportive environment for the individual concerned and all other staff members.

- Once advised, management should discuss the situation in full with the employee to become aware of their potential issues and concerns. It can also be helpful to seek additional advice and information. Enclosed in the Fair Workplace Packet is a list of resources for employers.
- Discussions with the employee should not be seen as an opportunity to dissuade them from their decision. While management may find the disclosure surprising and unexpected it is important to be aware that the employee will probably have spent a number of years arriving at this decision.
- Once management has gathered the necessary resources and information, they should work with the employee to develop a transition plan.
- If the employee so desires, management should notify all staff members (and relevant union organizations) in writing of the employee's intended transition. This document should be prepared sensitively, respecting the transitioning employee's needs and clearly indicating management's support. The best way to achieve this is to approach the issue matter-of-factly with a clear emphasis on management policy to treat all employees with respect and dignity and to prohibit discrimination and harassment based on gender identity. It is important for management to set the tone and provide leadership during the transition.

The document (see example included in this packet) should also include advice on how to appropriately treat and address the individual concerned. These should include:

- New name under which the employee will be known
- Use of appropriate gender pronouns. (She, her, etc if transitioning to female; Him, he etc if transitioning to male.)
- Access to appropriate facilities (restrooms, locker rooms, changing rooms of chosen gender)
- To be generally treated in the same way as all other members of staff (In no way should they be subject to harassment, snide remarks, jokes, etc.)
- Staff should be encouraged to discuss with management any issues that arise. If there are concerns it is easier to resolve them if they are addressed promptly.
- Where management succeeds in addressing all aspects of transition matter-of-factly, everything is more likely to go smoothly.

#### Goals

- The process will have minimal impact on all concerned and on workplace efficiency.
- The transitioning employee will be treated with respect and dignity.
- All staff concerns are addressed.
- The workplace will remain free of discrimination, harassment or unfair treatment.
- Staff will quickly adjust to employing correct name and pronouns.

If it seems that these goals are not being met, further training or reminder memos may assist in addressing any continuing issues. Continue to work with the trans employee to ensure that the guidelines presented by management are being followed by other employees.

**Model Document**

CONFIDENTIAL STAFF MEMO

Attn: All Staff in the \_\_\_\_\_ Department  
Re: Workplace Transition

Recognizing basic human dignity, treating all employees with respect, and ending discrimination and harassment in the workplace are important at [name of business]. This memo is intended to foster a safe and understanding environment as Marion Smith continues the process of a personal gender transition. Marion will now be referred to as Charles, and staff members will also need to adjust their use of pronouns. Charles will be referred to as “he” and “him.” Pronouns which were previously suitable to Marion (“she” and “her”) will not be appropriate after this date. The other effect of this change is use of gender-specific restrooms. It will be now be appropriate for Charles to use only male restrooms/locker-rooms.

Charles has worked for our department for four years now and is a valuable employee and coworker. This is a long and involved process for him. Charles and the management team appreciate the support of employees in the department.

[The appropriate management personnel] will be happy to address any appropriate questions regarding Charles’ transition.

As all staff are aware, our company policy and applicable state and local laws ensure:

Equal and fair opportunity for all prospective and existing employees in terms of:

- Employment
- Promotion
- Transfer
- Trainings
- Wages and Benefits

Regardless of:

- |                    |                           |
|--------------------|---------------------------|
| Race               | Familial status           |
| Ethnicity          | Responsibility/parenthood |
| Religion           | Pregnancy                 |
| Gender             | Political affiliation     |
| Sexual Orientation | Marital Status            |
| Gender Identity    | Disability                |
| Nationality        | HIV Status                |
| Age                |                           |

We recognize and encourage employees solely on the basis of their abilities, aptitudes, performance, qualifications and skills.

We strive to maintain a workplace that ensures respect and dignity for all staff.

## Names and Pronouns

Many trans people use a different name than that given them at birth. They may also choose a pronoun that matches their identity or expression. This may be different than that associated with their sex at birth or your impression of their appearance. Some people prefer to refer themselves with the words ze and hir, third gender pronouns.

Work with your employee to find out the name and pronoun they want to have used in the workplace and how they need it to be used. An employee may legally or personally need to have a different name or pronoun in different workplace settings. Some of the workplace settings in which an employee's name and/or pronoun may need to be changed are verbal usage, paycheck, employee identification badge/card, job references, and in personnel records. A personnel change form that formalizes name, pronoun, and sex changes may facilitate some of these changes.

An individual may change their name and/or gender with the following authorities or documents: Department of Motor Vehicles, birth certificate, Social Security Administration, and passport officials. This process can be lengthy and complicated for a transgender individual and depends on personal, financial and legal circumstances. Your employee will know what their legal status is with each of these authorities, and may need to be officially documented differently on separate personnel forms.

Please help simplify this process as much as possible by providing all appropriate forms and trusting your employee's judgment. The decision to identify differently in different situations is a very personal decision, based on individual needs and safety concerns. Please be respectful of your employee's decisions.

## **Fair Workplace Resources for Employers**

### **On-Line Resources**

- Basic Rights Oregon—Our website provides comprehensive information about the Fair Workplace Project, with access to many online resources. ([www.basicrights.org](http://www.basicrights.org))

### **Books: Gender Identity in Employment**

- “True Selves: Understanding Transsexualism - For Families, Friends, Coworkers and Helping Professionals” by Mildred L. Brown & Chloe Ann Rounsley, 1996. ISBN: 0787902713
- “Medical, Legal and Workplace Issues for the Transsexual” by Sheila Kirk, M.D., 1995. ISBN: 1887796002
- “Transsexual Workers: An Employers’ Guide” by Janis Walworth and Michelle Kammerer, 1998. ISBN: 0966548809 (available for purchase online at <http://www.gendersanity.com/order.shtml> )
- “Working with a Transsexual: A Guide for Coworkers” by Janis Walworth and Michelle Kammerer, 1999. ISBN: 0966548817 (available for purchase online at <http://www.gendersanity.com/order.shtml> )