

VALUING TRANSGENDER APPLICANTS & EMPLOYEES: A Best Practices Guide for Employers

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ABOUT THE NATIONAL LGBTQ TASK FORCE

The National LGBTQ Task Force advances full freedom, justice and equality for all LGBTQ people. We are building a future where everyone can be free to be their entire selves in every aspect of their lives. Today, despite all the progress we've made to end discrimination, millions of LGBTQ people face barriers in every aspect of their lives: in housing, employment, healthcare, retirement, and basic human rights; these barriers must go. They also face persecution, harassment and violence for simply being themselves; this must change. That's why the Task Force is training and mobilizing millions of activists across our nation to deliver a world where you can be you. For more information, visit www.thetaskforce.org.

ABOUT THE DISTRICT OF COLUMBIA OFFICE OF HUMAN RIGHTS

The District of Columbia Office of Human Rights (OHR) works to eradicate discrimination, increase equal opportunity and protect human rights for individuals who live in, work in, or visit the District of Columbia. The agency enforces local and federal human rights laws, including the DC Human Rights Act, by providing a legal process to those who believe they have been discriminated against. OHR also aims to end discrimination in the District through proactive policy and awareness initiatives, and by identifying and investigating practices that may be discriminatory. OHR has launched several ground-breaking initiatives intended to reduce discrimination against and improve the lives of transgender and gender non-conforming people in the District. For more information, visit ohr.dc.gov.

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DISCLAIMER

The information provided in this publication is intended to guide employers on ensuring transgender and gender non-conforming applicants and employees are treated appropriately. This publication should not be considered legal advice. Section III: Legal Obligations, provides a review of current federal law and policies as of May 2016, in addition to requirements under law in the District of Columbia. All other sections, including "best practices," are not necessarily considered requirements under federal or District law.

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INTRODUCTION

Access to stable employment is integral to human dignity and self-worth. Unfortunately for many transgender people, employment is often inaccessible due to discrimination. According to the National Transgender Discrimination Survey,¹ more than 90 percent of transgender people have experienced harassment in the workplace due to their gender identity, and at least 47 percent said they experienced an adverse job outcome (such as being fired, not hired, or denied a promotion) due to their gender identity. In the District of Columbia, a resume testing study conducted by the DC Office of Human Rights found 48 percent of employers tested² appeared to prefer at least one less-qualified cisgender applicant over a better-qualified transgender applicant. Clearly, employers and their employees are struggling to ensure transgender people are treated with respect and fairness in the workplace.

90%
**OF TRANSGENDER
PEOPLE REPORT
EXPERIENCING
HARASSMENT IN THE
WORKPLACE**

The purpose of this publication is to provide employers with guidance and “best practices” for transgender applicants and employees that go beyond legal obligations. These best practices can help create a workplace environment that is genuinely inclusive of the transgender community, to the benefit of all employees and the employer itself. The recommendations in this publication are not exhaustive, and employers relying on this guide are encouraged to constantly evaluate their policies and workplace culture to ensure they are productive environments that are inclusive and friendly to the transgender community.

¹ Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

² For determining rates of discrimination, only tests where one or more applicant(s) received a response were considered. This is in-line with best practices on correspondence testing. The complete findings are available at ohr.dc.gov/page/QualifiedAndTransgender.

DEFINITIONS

The following are definitions for gender identity and related terms:³

Cisgender A person who expresses as and identifies with the gender they were assigned at birth.

Gender Identity 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 Expression How a person represents or expresses one's gender identity to others, often through behavior, clothing, hairstyles, voice or body characteristics.

Gender Non-Conforming A term for people whose gender expression is different from societal expectations related to gender.

Non-Binary A term used by people who identify as neither entirely male nor entirely female.

Transgender A broad term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. "Trans" is shorthand for "transgender." (Note: Transgender is correctly used as an adjective, hence "transgender people," but "transgenders" or "transgendered" is often viewed as disrespectful.)

Transgender Man A term for a transgender person who identifies as a man.

Transgender Woman A term for a transgender person who identifies as a woman.

³ The definitions are from the National Center for Transgender Equality's "Transgender Definitions," with minor adaptations. The resource is available at www.transequality.org/issues/resources/transgender-terminology.

LEGAL OBLIGATIONS

While federal law does not explicitly prohibit discrimination based on gender identity or expression, federal courts and federal government policies are increasingly interpreting discrimination against transgender people as discrimination based on sex, which is strictly prohibited in employment. The Equal Employment Opportunity Commission (EEOC) has explicitly stated it interprets and enforces sex discrimination protections from Title VII of the Civil Rights Act of 1964 as forbidding employment discrimination based on gender identity or sexual orientation, and that these protections apply regardless of any contrary state or local laws.

As of May 2016, 19 states and the District of Columbia have explicitly prohibited discrimination based on gender identity and expression. Among the most progressive and comprehensive non-discrimination laws that include gender identity or expression is the District of Columbia Human Rights Act of 1977 (HRA), which is reviewed below.

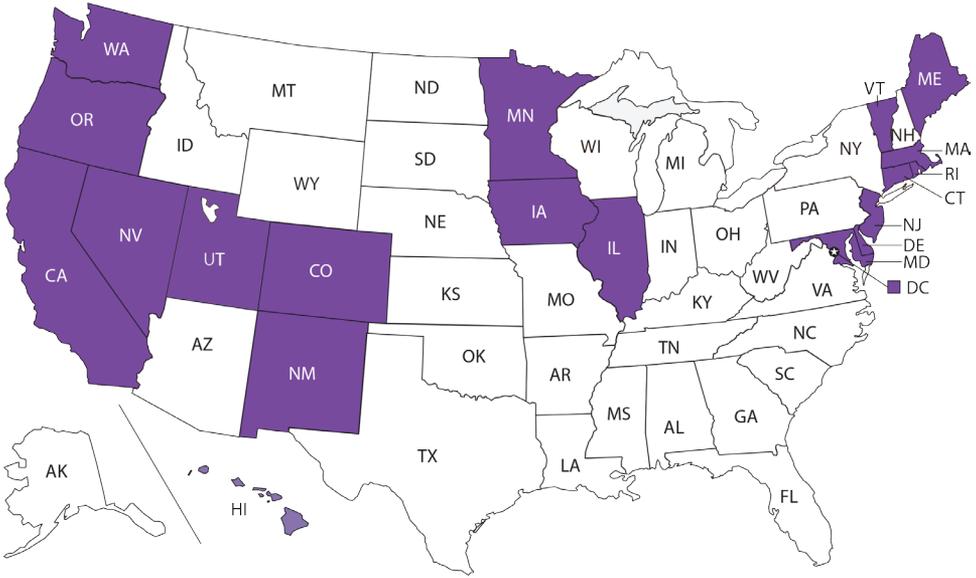
FEDERAL LAW

Gender identity discrimination as sex discrimination

In 1989, the U.S. Supreme Court decided the case known as *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989). The case was about Anna Hopkins, an employee of the Price Waterhouse firm, who upon being denied a promotion to partner status was told she needed to behave in a more stereotypically feminine way, with one written evaluation saying she needed a “course in charm school.” There, the Court held clearly that gender stereotyping, or discrimination against an individual in employment based on their not fulfilling the expected stereotypical behavior associated with gender, constituted sex discrimination in violation of Title VII of the Civil Rights Act of 1964.

Applying *Price Waterhouse* (EEOC Appeal No. 0120120821, April 20, 2012), the EEOC held in 2012 in *Macy v. Holder* that refusing to hire a transgender woman due to her gender identity constituted illegal sex discrimination under Title VII. The EEOC further clarified this position a year later, when in *Jameson v. U.S Postal Service* (EEOC Appeal No. 0120130992, May 21, 2013), it held that intentional misuse of a transgender employee’s new name and pronouns may constitute sex-based

STATES WITH EXPLICIT EMPLOYMENT DISCRIMINATION PROTECTIONS BASED ON GENDER IDENTITY OR EXPRESSION



States with explicit employment discrimination protections based on gender identity or expression, as of May 2016 (19 states and the District of Columbia): Minnesota (1993), Rhode Island (2001), New Mexico (2003), California (2003), District of Columbia (2005), Illinois (2005), Maine (2005), New Jersey (2006), Washington (2006), Iowa (2007), Oregon (2007), Vermont (2007), Colorado (2007), Connecticut (2011), Hawaii (2011), Nevada (2011), Massachusetts (2011), Delaware (2013), Maryland (2014), Utah (2015).

discrimination and/or harassment. Most recently in *Lusardi v. Dept. of the Army* (EEOC appeal No. 0120133395, Mar. 27, 2015), it held that imposing restrictions on a transgender employee’s ability to use a restroom facility consistent with their gender identity constitutes illegal disparate treatment under Title VII.

This constellation of case law, combined with several decisions in federal district courts and circuits across the country, confirms discrimination against transgender employees in employment is illegal sex discrimination under federal law.

DISTRICT OF COLUMBIA LAW

In 2006, the District of Columbia added gender identity and expression to the DC Human Rights Act of 1977 (HRA), prohibiting discrimination against transgender people in employment, housing, public accommodations, and educational institutions.

In employment, the HRA prohibits the following acts based on an individual's gender identity or expression:

- Failure or refusal to hire or promote;
- Discharge;
- Treating individuals differently with respect to compensation, terms, conditions or privileges of employment;
- Verbal or physical harassment or permitting such conduct to persist in the workplace; or
- Requiring an individual to state whether they are transgender.

In addition, the HRA has regulations that serve as guidance for various issues affecting transgender employees (see 4 DCMR § 800 et seq):

Access to Gender-Segregated Facilities (4 DCMR §§ 802, 805)

Transgender people must have equal access to restrooms or other gender-specific facilities that are consistent with their gender identity or expression, including facilities where nudity in the presence of other people is common. Requiring documentation or other proof of an individual's gender or gender identity is prohibited, except in situations where all people are asked to provide documentation or other proof of their gender for a reasonable business or medical purpose (see 4 DCMR § 805.3).

Additionally, all single-occupancy restroom facilities in the workplace must be gender-neutral.

Dress and Grooming (4 DCMR §§ 804)

Employers may not require transgender people to dress or groom themselves in a manner inconsistent with their gender identity or expression. Employers can require dress standards that serve a reasonable business purpose as long as the standards do not discriminate or have a discriminatory impact on the basis of a person's gender identity or expression.

Accommodations for Health Care Needs (4 DCMR § 803)

When requested, employers must make reasonable accommodations (including medical leave) for gender identity-related health care needs, including but not limited to medical or counseling appointments, surgery, recovery from surgery, or any other trans-related procedures.

Gender and Name Requirements (4 DCMR §§ 806, 807)

Employers may not require an applicant to state whether they are transgender. If an employer learns through a background check that an applicant or employee is transgender, the employer may not take an adverse action based on the information and shall take reasonable steps to preserve the confidentiality of the learned information.

If an application form asks for an individual to identify as “male” or “female,” a transgender applicant may choose the sex they identify with rather than their assigned or presumed gender. Similarly, an applicant may apply for employment using their preferred name, if it is publicly and consistently used by the applicant, and the preferred name is consistent with the applicant’s gender identity or expression. A legal name can be required when there is a legitimate business reason or when required by law. An employer is prohibited from considering any of the actions above to be fraudulent or a misrepresentation, and may not take adverse action against the applicant for such designation or preference.

Harassment (4 DCMR § 808)

The following behaviors by supervisors or coworkers may be considered unlawful harassment or a hostile work environment:

- Deliberately misusing a person’s preferred name or pronoun;
- Asking personal questions about an individual’s body, gender identity or expression or transition;
- Causing distress to an individual by outing a transgender person against their will; or
- Posting offensive pictures or sending offensive communications.

The District uses the probable cause standard in determining whether the above constitute harassment or a hostile work environment.

BEST PRACTICES IN THE WORKPLACE

The adoption of best practices is essential for creating and maintaining a transgender-inclusive workplace that ensures fair and equitable treatment of transgender employees.

These recommendations act as guidelines for employers committed to being the “gold standard” in this area. The recommendations are policies that can be enacted by any employer, from the small business owner to the largest company’s human resources (HR) department.

In this section, the following Best Practices will be reviewed:

1. Maintain confidentiality
2. Use proper names and pronouns.
3. Ensure access to restrooms and other facilities.
4. Implement gender-neutral dress codes.
5. Address challenges with other employees and coworkers.

BEST PRACTICE 1: MAINTAIN CONFIDENTIALITY

There are many ways an employer may learn an employee is transgender. It can occur during the hiring process because of the application or a background check, or when an existing employee decides to transition into the gender with which they identify. The disclosure may occur when the employee requests an employment accommodation – such as asking a supervisor to ensure colleagues use their preferred name instead of their legal name – or it can be learned through other means, such as employee gossip or mutual acquaintances. Regardless of how an employer learns an individual is transgender, it is essential that confidentiality be maintained at all times. Information should be shared solely on a need-to-know basis or in consultation with the employee.

If a transgender employee tells a supervisor they intend to transition or already have transitioned, disclosing it to an HR official may be necessary to coordinate updating the employee’s records to reflect their appropriate gender, name or other information. However, this should be discussed with the employee and coordinated with their needs, wishes and transition timeline. Supervisors or colleagues should never out

an employee to coworkers against their will or without consulting them. Transgender people frequently face stigma, prejudice and discrimination in the workplace, and being outed can jeopardize their job satisfaction and safety. Employers should establish clear rules prohibiting employees from disclosing or gossiping about an employee's gender identity, and ensure violations of the policy are addressed quickly.

SAMPLE SCENARIOS

SCENARIO I

Allison is about to start working at Acme, Inc. as an accountant and tells Dana, her supervisor, that she is transgender. Although her legal name is David, she goes by Allison and uses the pronouns "she" and "her." Dana acknowledges this and asks if Allison is comfortable with Dana informing the HR department so that the name Allison is used on her email account, business cards and other outward facing documents. Allison agrees. The subject is kept confidential between them and is not discussed with coworkers except to the extent that Allison wishes.

SCENARIO II

Allison has been working at Acme, Inc. for two years as an accountant, and during that time has been perceived as male and has used the name Alexander. During their weekly check-in meeting, she informs her supervisor Dana that she is planning to transition to her desired gender of female, and plans to adopt the name Allison. Dana and Allison discuss her plans and timeline, and whether and when Allison wants Dana to talk to HR about changing her name and gender in records. They also discuss how "out" Allison wants to be with coworkers, and if this is something she would rather have Dana speak with them about or if she would prefer to do so herself. At no point should Dana assume what Allison wants or does not want without asking her. Dana should never email employees to inform them of Allison's transition without receiving Allison's approval, including which employees will be informed.

SCENARIO III

Allison is transgender and works at Acme, Inc. She has a close working relationship and friendship with her coworker Jane, and has confided to her that she is transgender. Allison is not out to the rest of the workplace. Jane should never disclose Allison's gender identity to other coworkers or supervisors without Allison's consent.

BEST PRACTICE 2: USE PROPER NAMES AND PRONOUNS

As part of living authentic lives true to their gender identity, many transgender people will adopt a name other than the one assigned at birth, as it is more congruent with their identity. Many transgender people will take steps to have their name and gender legally changed in their identification documents to more closely match their gender identity. Others, however, may not make these legal changes for a variety of reasons, including the cost, availability and accessibility of the legal process.

Regardless of the legal name and gender, employers should use an employee's desired name and pronouns when communicating with them, and when talking about them to third parties. The employer must ensure employees respect and use a transgender employee's preferred names and pronouns, as repeated failure to do so can be considered harassment, and can cause severe distress to a transgender employee.

Of course, employers need to know an employee's legal name for a variety of reasons, including tax forms and paychecks. Yet nothing prohibits employers from allowing transgender employees to use preferred names and pronouns in all other settings, including on badges, business cards, email accounts, staff directories and schedules. A transgender employee's legal name should be used solely for HR-related legal necessities, and be maintained as a confidential part of their employee file. It should only be shared on a need-to-know basis. Additionally, it is recommended employers give *all* employees the option to provide both their legal name and optional preferred name whenever possible on HR documents.

Creating a Plan and Timeline

When an employee transitions in the workplace, the employee and their supervisor should discuss how the employee wants to transition the use of their name and pronouns. This can include establishing a date the employee wants to start using their new name in the workplace, which allows the employer to complete the tasks necessary to ensure the preferred name is reflected on outward facing documents.

The employer and the transgender employee should also discuss how to best communicate the new names and pronouns to coworkers, and determine which employees are notified. Usually, communications should be limited to employees who already know the transgender employee,

GENDERED AND GENDER-NEUTRAL PRONOUNS

He	<i>He</i> smiled.	I met <i>him</i> .	<i>His</i> bike.	He is <i>himself</i> .
She	<i>She</i> smiled.	I met <i>her</i> .	<i>Her</i> bike.	She is <i>herself</i> .
Ze	<i>Ze</i> smiled.	I met <i>zir</i> .	<i>Zir</i> bike.	<i>Ze</i> is <i>zirsself</i> .
They	<i>They</i> smiled.	I met <i>them</i> .	<i>Their</i> bike.	They are <i>themselves</i> .

and not the entire workplace. As mentioned earlier, the employer should develop a plan in consultation with the transgender employee, and understand that some transgender employees may want to tell coworkers themselves, while others may prefer the supervisor tell them.

Developing Email Addresses

To make the transition process easier for existing employees, it is recommended all work email addresses use an employee's surname rather than their given name. This way a change in email address is unnecessary if an employee transitions. For example, the address `jsmith@company.com` for employee Jane Smith would be preferable to `jane.smith@company.com` or `jane@company.com`. A transgender employee can easily be outed by a change in email address that may not be necessary if the email address does not include their given name.

Asking About Pronouns

Employers who routinely ask all employees to share their preferred pronouns can create a welcoming environment for transgender employees. Asking all to share preferred pronouns during introductions at meetings or on name badges can greatly reduce stress around pronoun usage for all employees. Employers can also provide *all* employees the option to put preferred pronouns in their email signatures, however it should be *strictly optional*, given some transgender people may not feel comfortable doing so for a variety of reasons. These proactive measures can dramatically enhance transgender employees' comfort in the workplace and make an important statement about the desired workplace culture.

BEST PRACTICE 3: ENSURE ACCESS TO RESTROOMS AND OTHER FACILITIES

Transgender employees should at all times be able to use the restroom and other gender-segregated facilities (such as locker rooms) that they are most comfortable with. At no point should gender-segregated facilities prohibit a transgender employee from fully living according to their gender identity. Refusing to allow transgender employees to use the bathroom that is congruent to their gender identity is a form of discrimination and can place a transgender person at risk by exposing them to ridicule, harassment, and even violence.

The restroom or other gender-segregated facility a transgender employee uses should be a decision made solely by the transgender employee. At times a transitioning employee may not feel comfortable using the restroom of the gender they are transitioning to until they reach a certain point in their transition. Similarly, someone who identifies as non-binary may want to use a specific restroom because they are most comfortable with it, regardless of their personal appearance. This policy should apply to locker rooms and other changing facilities that exist in the workplace.

Use and Creation of Gender-Neutral Facilities

While a transgender employee may prefer to use, if available, a separate gender-neutral facility, they should never be required to use one. A transgender employee should be able to use a gendered facility even when a gender-neutral facility is available. If a cisgender employee expresses discomfort about sharing a gendered facility with a transgender coworker, the cisgender employee should be offered, if possible, the use of a separate gender-neutral facility.

It is also recommended workplaces make all single-occupancy restroom



Public bathrooms are challenging enough. Help make them a bit easier for our transgender community.

If a bathroom has just one toilet and is labeled "men" or "women", let us know and we'll get it switched to be gender-neutral.

 Tweet the business name, location & a photo using [#safebathroomsDC](https://twitter.com/safebathroomsDC)

 Or, fill out a quick form on our website at ohr.dc.gov/bathrooms

Office of Human Rights
District of Columbia

#SafeBathroomsDC campaign asks DC residents to report gendered single-occupancy public restrooms.

facilities gender-neutral, and build single-occupancy gender-neutral restrooms whenever possible. This can preempt issues or discomforts that arise from employees who are hostile to or have a lack of understanding of transgender people.

BEST PRACTICE 4: IMPLEMENT GENDER-NEUTRAL DRESS CODES

Dress codes and uniforms are often an integral part of a workplace's culture and philosophy. Workplaces should ensure dress codes or uniforms do not specifically impose disparate rules based on gender. Dress codes or uniforms that require women wear skirts or dresses and men wear slacks or neckties can be discriminatory, and can also place unnecessary burdens on transgender and gender non-conforming people.

It is recommended that workplaces with a dress code or uniforms make them gender-neutral. A dress code that says "business casual attire (such as dress pants and dress shirts or blouses or business casual dresses), no jeans and no shorts," would be preferable to "business casual attire, (slacks for men, dresses and dress skirts for women)." If a workplace issues uniforms that are gendered in how they are sized and tailored (such as most police uniforms), an employee should be allowed to choose the issued uniform that most fits their gender identity and preferences.

BEST PRACTICE 5: ADDRESS CHALLENGES WITH OTHER EMPLOYEES AND COWORKERS

Occasionally, employees may express discomfort with a transgender co-worker, or may resist referring to them by their preferred name and pronouns. Employers should insist on a professional environment in which personal animosities do not interfere with the workplace, and ensure employees manage themselves in a professional way. The employer should always work with and/or reprimand the person expressing the discomfort and causing the issue, not with the transgender employee. Often times this can be accomplished by helping the problematic employee better understand the concept of gender identity, yet harassment or derogatory comments should not be tolerated and clear rules and guidelines should be established to that effect.

BEST PRACTICES IN HIRING

Adopting best practices on transgender issues should not be limited to existing employees. Workplaces should also establish guidelines that prevent bias when recruiting and hiring new employees. In 2015, the DC Office of Human Rights' *Qualified and Transgender* report revealed that 48 percent of employers tested⁴ in the District of Columbia appeared to prefer at least one less-qualified applicant perceived as cisgender over a more qualified applicant perceived as transgender. These are extremely high (and unacceptable) rates of discrimination, and the best practices in this section can help employers avoid intentionally or unintentionally discriminating against transgender applicants.

In this section, the following Best Practices will be reviewed:

6. Use proactive methods to uncover discrimination.
7. Ensure interviews are welcoming.
8. Ensure fair background checks.
9. Avoid irrelevant questions when checking references.

BEST PRACTICE 6: USE PROACTIVE METHODS TO UNCOVER DISCRIMINATION

Employers should use proactive methods to ensure transgender applicants do not face discrimination during the application review stage of the hiring process. This can be done by reviewing hiring processes and removing unnecessary barriers for transgender applicants, such as requiring them to select "male" or "female" on an application form. For employers that rely on online application forms, prospective employees should be given the option to provide both their preferred name as well as their legal name, and should also be asked for their preferred pronouns. If an applicant states a preferred name that is different from their legal name on an application or resume (often referred to in a parenthetical), the application should be filed using the person's preferred name.

⁴ For determining rates of discrimination, only tests where one or more applicant(s) received a response were considered. This is in-line with best practices on correspondence testing. The complete findings are available at ohr.dc.gov/page/QualifiedAndTransgender.

Proactive employers can also conduct internal testing to ensure those reviewing applications are fairly considering transgender applicants. Employers can create two pseudo applicants with resumes – one with transgender identifiers and one without – with the transgender applicant being slightly more qualified for the position, all else equal.⁵ Employers can then make sure the less-qualified cisgender applicant was not selected for an interview without the more-qualified transgender applicant being selected as well. If the internal testing reveals possible discrimination, cultural competency training and other corrective policy actions are recommended to ensure fair treatment of transgender applicants.

BEST PRACTICE 7: ENSURE INTERVIEWS ARE WELCOMING

During job interviews, it is recommended the same inclusive norms that exist in a transgender-friendly workplace also be used with prospective applicants. This includes interviewers providing their pronouns alongside their names when introducing themselves, and asking the interviewee their preferred pronouns and preferred name if it is not already known. Under no circumstances should an interviewer ask personal questions about an employee's transition or gender identity. Asking questions about how far along an applicant is in their transition, what specific medical procedures they have undertaken, what gender they were assigned at birth, or what their "real name" was is an invasion of privacy, and raises the possibility of a biased hiring decision.

BEST PRACTICE 8: ENSURE FAIR BACKGROUND CHECKS

Some positions may require background checks, especially when the employee is entrusted with highly confidential information or firearms as part of the job. It is possible a background check may reveal that an applicant is transgender, either because of prior records under an old name, or because the individual was required to provide names they used in the past. There are many stories of anti-transgender employment

⁵ Review the methodology for the *Qualified and Transgender* report for ideas on how to conduct testing within a company using transgender identifiers on resumes. The report is available at ohr.dc.gov/page/QualifiedAndTransgender.

discrimination in which an offer was rescinded because of information revealed about their gender identity during the background check.

An applicant should not be required to disclose their gender identity for a job application or background check, and it should not be considered an act of dishonesty for a person to not disclose they are transgender. Employers conducting background checks on employees must have clear policies about when an offer should be rescinded because of the results, and ensure that a person's transition or gender identity is never a factor in such a determination, regardless of whether it was disclosed. When possible, the results of the background check should be kept confidential, and only information relevant to the individual's job duties should be disclosed to the supervisor or hiring manager.

SAMPLE SCENARIO

SCENARIO IV

After Allison receives a conditional job offer at Acme, Inc., the HR manager Brian explains to Allison they will conduct a background check, and he asks her to fill out a form that requires listing any past names she has used. Allison completes the form, and notes her previous name was David. Brian conducts the background check under both names and finds that Allison has a conviction for a misdemeanor marijuana possession from six years ago. As the HR manager, Brian concludes that the age and type of conviction is not a reason for Acme, Inc. to withdraw their offer to Allison. Brian informs Allison's future supervisor that she passed the background check, and does not disclose that Allison used to be called David.

BEST PRACTICE 9: AVOID IRRELEVANT QUESTIONS WHEN CHECKING REFERENCES

Employers should never ask about an applicant's gender identity when speaking with references from their application. Questions related to an applicant's gender identity are a violation of privacy and risk outing an individual against their will. Employers should use the preferred name provided when referencing the applicant, and should use the pronouns the applicant used to describe themselves, if applicable. If unsure, it is appropriate for the employer to ask the applicant the name and pronouns they would like the employer to use when speaking with references.

CONCLUSION

By implementing these best practices and ensuring the workplace is compliant with federal and local laws, employers can create a welcoming environment for transgender employees that can enhance productivity and job satisfaction. While some jurisdictions – such as the District of Columbia – have strong laws to protect transgender employees, other jurisdictions do not. Employers in jurisdictions with fewer protections for transgender workers, but who implement these best practices, will have an edge in attracting exceptionally talented transgender employees who desire an inclusive workplace.



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