

WORKPLACE GENDER IDENTITY AND TRANSITION GUIDELINES

Executive Summary

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Introduction

The 21st Century workplace in Corporate America has seen a dramatic shift in recent years with respect to the diversity of its employees and of the candidates it seeks to recruit. The creation of an inclusive business atmosphere can influence how a younger generation of workers perceives a company and exemplifies what they value in a competitive market place. The term diversity itself has undergone a broadening of meaning. Once a “code word” for women and minorities in the workforce, or applied to personal aspects such as “race, religion, or creed,” we now know and expect diversity to include “gender, sexual orientation, gender identity and gender expression.” Each and every day, more companies are recognizing the value of creating and maintaining an inclusive workplace that respects and celebrates the individuality of its employees and their contributions to the success of the enterprise.

Despite this very positive trend, many companies continue to struggle with taking that next step: adopting policy and procedures that support these dimensions of diversity. This is never more apparent than when a transgender or gender-diverse employee decides to live as their authentic self and begins a gender transition in the workplace or when a job applicant discloses they are transgender or gender-diverse.

Guideline Objectives

The Workplace Gender Identity and Transition Guidelines (WGITG) provide information for supporting an employee through a gender transition, or establishing an environment where non-binary gender expressions are not an issue. The WGITG advise the transitioning employee, their co-workers, managers and business-based Human Resources partners of their roles in the process. The WGITG are meant to be flexible enough to support customizing a transition plan specific to the circumstances of a transitioning or gender-diverse employee, but also specific enough to provide a consistent framework for managing the transition process.

Company Policies

Employees are always expected to conduct themselves consistent with company policies and mission

statement if there is one. The company’s Equal Employment Opportunity (EEO) policy should include gender identity and expression. Discrimination or any other inappropriate behavior directed against anyone because of their gender identity or gender expression is prohibited. In addition to company policies, Title VII of the 1964 Civil Rights Act specifies that it is unlawful to discriminate based on sex and the Equal Employment Opportunities Commission (EEOC) has concluded that “sex” includes gender identity, gender expression or sex stereotyping. The protection of Title VII ‘extends to claims of discrimination based on an individual’s gender which includes their transgender status’ (Title VII Memo 14-1429; 18 Dec 2014). Your workplace philosophy should be consistent with these principles so that all employees are treated fairly and with respect.

Transition Planning

Just as with any major life changing event, it is recommended that the employee have support throughout their transition. Medical protocols should look to the World Professional Association Transgender Health Standards of Care (WPATH SOC) Version 7 (or the most recent version) for guidance. This document is available at <http://www.wpath.org>.

Companies are urged to develop a confidential transitioning “project plan” detailing what needs to be done in preparation for the employee’s eventual gender transition. In consultation with the transitioning employee, management will need to consider who will be confidentially informed about the decision and who may be part of the support and advocacy network for the employee while at work. Persons to consider include: the employee’s manager (or another member of that employee’s management chain), a member of business-based Human Resources, an Employee Assistance Plan resource, a trusted member of the company LGBTQ employee resource group (ERG), a representative from the Office of Diversity & Inclusion, the Gender Transition Liaison (if that role is appointed) or other already-transitioned employees within the company. There is no ‘best’ method of transitioning so it is important that all parties involved use an adaptive process regarding the transition plan, adjusting and

revising the plan as each individual transition progresses to ensure the best possible outcome.

Appearance, Customer & Supplier Contact, Restrooms

The company has the right to regulate employee appearance and behavior in the workplace for reasonable business purposes. A transgender employee is permitted to dress consistently with their gender identity and is required to comply with the same standard of dress and appearance that applies to all other employees in their workplace and similar position. The decision as to if or when and how, to begin a transition socially remains the employee's choice. It should be noted that transitioning or gender non-conforming employees do not need to change their legal documents in order to present as their desired gender in the workplace, to change their name at work or their email, etc. If the employee does change their name, name (and pronoun) changes should be honored in all contexts. However, payroll is linked to the employee's Social Security Number for tax purposes, and the employee should change their name with the Social Security Administration and their financial institution before payroll changes take place.

If the employee is in a role where they have contact with external customers or suppliers, the transition plan and communication strategy should include developing a message and timing for advising these external individuals. It may be helpful to include a statement of the Company non-discrimination policies within that messaging.

Access issues related to restrooms and other gender-segregated facilities (e.g., locker rooms) will be handled with sensitivity. The company has the obligation

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to provide transitioning employees with the same level of facilities access available to other employees but must also respect the needs of co workers and the comfort of all employees. Transgender and gender non-conforming employees will be permitted to use the facilities that correspond to their gender identity and expression.

Guidelines for Management & Human Resources

Company support is critical for an employee who informs you of their intention to transition or is in the process of transitioning. The actions of management will play a key role in the successful outcome of the overall transition in the workplace. A lack of knowledge about transgender and gender non-conforming issues has the potential for creating misunderstanding and tension in the workplace. It is important that management demonstrate the behavior that all employees will be expected to follow. Any negative concerns that co-workers may have should be addressed swiftly by Human Resources and management.

If you are not familiar with the LGBTQ community, allow the employee to educate you or seek information from the resources listed in the full WGITG document. Human Resources should provide advice and assistance for supervisors working with a gender-diverse or transitioning employee and should be responsible for establishing the initial conversation and planning. Partner with Human Resources and contact them if you have any questions or concerns. If established, members of the company's LGBTQ ERG may also be able to assist.

Human Resources may be the first point of contact with an employee who has indicated that they wish to transition within the company. The human resource staff should be key leaders in working with and developing a suitable transition plan based on the employee's expectations and the company's ability to adequately develop a communication strategy based on the overall plan. A qualified transition team leader, a member of HR or Diversity & Inclusion (D&I) leader, should be appointed to facilitate and work directly with the gender-diverse or transitioning employee.


The HR or D&I leader will also help to facilitate knowledge about health insurance coverage, medical leave, Employee Assistance Program (EAP) counseling, name, email, and document (tax, ID, badging, and security clearances) revisions as appropriate that will need to

take place throughout the company or with third party providers. It is important that IT be part of the overall planning from an early stage to ensure that all needed revisions to company's IT infrastructure are completed by a specific date to be determined with the employee as part of the individualized transition plan.

Summary

Transgender and gender-diverse employees have the right to be who they are, openly, just like everyone else, which includes expressing their gender identity without fear of adverse consequences in the workplace. Similarly, the company has the right to expect that employees and support the needs of the business to function smoothly. This document advocates the use of a well-developed transition plan based on mutual respect for the transitioning or gender-diverse employee, their co-workers, customers, business partners and management. Such a plan, helps all affected parties in the workplace sphere successfully navigate the change and contributes to the company's ability to diminish or eliminate workflow disruptions.

The WGITG is a living document and may be revised as legal or procedural advancements occur. Please advise your HR and D&I staff to check the Out & Equal Workplace Advocates website periodically to ensure the latest version of these guidelines are in use at your company.



Race, ethnicity, sexual orientation, gender... professionals in today's evolving workforce are more diverse than ever. But oftentimes, they look at our more traditional leadership roles and don't see people who necessarily look, act, or think like themselves. To attract the top talent throughout the profession, we need to create a nurturing and open environment where people can be themselves and bring their perspectives, experiences and unique strengths. By fostering an inclusive environment we will continue to attract, develop and retain the best people and will make a powerful impact on them, our clients and our profession.

Deborah DeHaas, Chief Inclusion Officer, Deloitte

The Workplace Gender Identity and Transition Guidelines (WGITG) have been prepared and published to provide general information to interested persons. WGITG should in no way be relied upon or construed as legal advice. No representation is made as to the accuracy or relevance of any information for individual circumstances. It is recommended that one consult a licensed and qualified attorney admitted to practice in your state for appropriate legal advice.



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