Sexual Orientation & Gender Identity Policy



Does your discrimination policy protect the rights of LGBT people? The question is important because sexual orientation, gender expression and identity discrimination tend to be blind spots in organizational efforts to comply with human rights laws. While general anti-discrimination and harassment policies mention these traits, they rarely address the topic specifically. Here's an LBGT discrimination policy template that you can use, either as a freestanding policy or as an addition to incorporate into your general anti-discrimination policy.

1. **POLICY**

ABC Company recognizes the inherent dignity and worth of all individuals and is committed to providing all job applicants and employees equal opportunities and rights without discrimination, as well as a workplace that is respectful, inclusive, understanding, free of harassment and psychologically healthy. ABC Company does not in any way discriminate on the basis of sex, sexual orientation, gender expression or gender identity, race, national or ethnic origin, colour, religion, age, ancestry, sex, marital status, family status, genetic characteristics, disability or conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered, political belief, creed, source of income or other personal characteristics or circumstances protected by human rights laws.

2. **PURPOSE**

The purpose of this Policy is to set forth clear guidelines to address the needs and protect the legal rights of employees who are gay, lesbian, bisexual, transgender, gender non-conforming and/or queer employees (which, for simplicity's sake, this Policy will refer to collectively as "LGBT people") in a way to ensure their safety, comfort, privacy and self-dignity while maximizing workplace integration and minimizing stigmatization.

3. **DEFINITIONS**

The purpose of these definitions is not to affix labels but clarify terms that must be understood to achieve the objectives of this Policy, including:

- **"Discrimination,"** in the context of LGBT people means any distinction, exclusion, restriction, preference or differential treatment of an LGBT person

or a person perceived as being LGBT (regardless of whether that perception is accurate or inaccurate) based on that person's being or being perceived to be LGBT that, whether intentional or not, has the effect of: i. imposing burdens on the person or group that are not imposed upon others; ii. withholding or limiting access to opportunity, benefits and advantages available to other members of society; or iii. perpetuates or promotes stereotypes about an LGBT person's behaviour, capabilities or worth that are untrue and offensive to human dignity;

- **"Gender expression"** is how a person publicly presents their gender, including via behaviour, outward appearance such as dress, hair, make-up, body language, voice and chosen name;
- "**Gender identity"** means a person's internal, deeply-felt sense of being male, female or something other or in-between, regardless of the sex they were assigned at birth;
- **"Gender non-conforming"** refers to individuals who have, or are perceived to have, gender characteristics and/or behaviours that do not conform to traditional or societal expectations;
- **"Harassment"** is a form of discrimination that refers to engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome. In the context of this Policy, harassment refers to conduct that deliberately targets LBGT people or is based on the person's being or being perceived to be LGBT, regardless of the accuracy of that perception, which may include but is not limited to:
    - Harsh and excessive criticism of a personal and non-constructive nature;
    - Spreading rumours designed to harm a person's reputation or put the person in a negative light;
    - Spying or stalking;
    - Name calling and teasing;
    - Pushing, shoving, elbowing, jostling and other acts of physical intimidation; and
    - Unwelcome practical jokes, slurs and offensive remarks;

Harassment also includes such forms of conduct that occur online, in emails and on social media websites and other digital platforms and media;

- **"Transgender"** is a broad term used to describe people whose gender identity and/or expression is different from their sex assigned at birth. Subsets of the term include:
    - **FTM,** or female-to-male transgender person, aka, transgender man, is a person whose sex assigned at birth was female but who identifies as male;
    - **MTF,** or male-to-female transgender person, aka, transgender woman, is a person whose sex assigned at birth was male but who identifies as female
        - **Note:** Some people described by this definition don't consider themselves transgender, and may use other words, or identify simply as a man or woman; a person need not identify as transgender to be covered by this Policy;
    - **"Sexual orientation"** encompasses the range of human sexuality from gay and lesbian to bisexual and heterosexual orientations, including intimate emotional and romantic attachments and relationships, which may be described colloquially by terms like "gay" and "straight." **Note:** Sexual orientation is distinct from gender identity and expression and both transgender and non-transgender people can be gay, lesbian, bisexual, or straight;
    - **"LGBT"** is a commonly used abbreviation that refers to the lesbian, gay, bisexual, and transgender community;
    - **"Transition"** refers to the process of changing one's gender from the sex

assigned at birth to one's gender identity; and
- **"Queer"** is a controversial term that some consider appropriately descriptive and others consider derogatory to refer to gender identity and/or sexual orientation of people in any gender.

4. **RELIGION & LGBT DISCRIMINATION & HARASSMENT**

Some individuals might find a job applicant or employee's status as an LGBT person offensive on religious grounds. While ABC Company recognizes and respects the rights of all individuals to harbour their own sincerely held religious and moral beliefs, it will neither condone nor tolerate any form of discriminatory behaviour based on those beliefs. Accordingly, those found to have engaged in discrimination or harassment of LGBT persons will be subject to discipline up to and including termination regardless of whether they believed their conduct was justified on religious or moral principles.

5. **PRIVACY**

Employees may discuss their sexual orientation, gender identity or expression openly, or keep that information private. In all cases, ABC Company management, supervisors and employees will respect the privacy of employees and not disclose private information that may reveal an employee's sexual orientation, transgender status or gender non-conforming presentation, such as the sex they were assigned at birth, to others without the employee's consent, except where disclosure without consent is required by law. Where such information is disclosed, whether with or without consent, it must be limited to the minimum amount necessary to accomplish the purpose of the disclosure.

6. **COMPANY RECORDS**

If an employee requests it, ABC Company will change the employee's official record to reflect a change in name or gender. Although preferences will be accommodated, changes to payroll, retirement accounts and other records may require a legal name change before the person's name or gender can be changed. ABC Company will also make prompt efforts to update any photographs at the transitioning employee's workplace to ensure accurate representation of the transitioning employee's gender identity and expression.

7. **RESTROOM ACCESSIBILITY**

All employees have a right to safe and appropriate restroom facilities, including the right to use a restroom corresponding to their gender identity, regardless of the employee's sex assigned at birth. Employees who want or need increased privacy, regardless of the underlying reasons, will be provided access to a single-stall restroom, when available; however, no employee, will **be required to** use such a restroom.

8. **LOCKER ROOM ACCESSIBILITY**

All employees have the right to use the locker room that corresponds to their gender identity. Employees who want or need increased privacy, regardless of underlying reasons, may be provided with reasonable alternative changing accommodations, which may include, for example, permitting the use of a private area to change, or use of the locker room corresponding to their gender identity before or after other employees. Any alternative arrangement for a transgender employee will be provided in a way that allows the employee to keep their transgender status confidential.

9. **DRESS CODES**

ABC Company will not implement dress codes that restrict employees' clothing or appearance on the basis of gender. Transgender and gender non-conforming employees have the right to comply with Company dress codes in a manner consistent with their gender identity or gender expression.

10. **NAMES & PRONOUNS**

All employees have the right to be addressed by the name and pronoun that correspond to the employee's gender identity, upon request, without a court-ordered name or gender change. Intentional, persistent or unreasonable refusal to respect an employee's gender identity, such as by using a "his" or "her" pronoun that does not correspond to the employee's gender identity, may constitute harassment and grounds for discipline under the ABC Company Anti-Discrimination & Harassment Policy.

11. **SEX-SEGREGATED JOB ASSIGNMENTS**

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

12. **TRANSITIONING ON THE JOB**

ABC Company will fully support employees who transition on the job. HR will work with each transitioning employee individually to ensure a successful workplace transition. [*This provision should also list:*

- *The lead contact person for assisting the transitioning employee;*
- *What a transitioning employee can expect from management;*
- *Expectations of management and other staff, transitioning employees in facilitating a successful workplace transition; and*
- *Related policies and practices for assisting with the transition process, such as: washroom policies, dress code policies, confidentiality and privacy, recognizing the person's new name in documentation and records, anti-harassment policies, dealing with any individual accommodation needs as well as training for management, staff and clients*]

13. **REPORTING DISCRIMINATION**

ABC Company wants to ensure all its employees feel safe, comfortable and encouraged to report any incident of LGBT or other discrimination, harassment or misconduct they have observed or experienced. Please file a complaint about any such incident to your manager or HR advisor [*contact name and info*]. If it is not appropriate to file a complaint with these individuals because they are involved in the incident, the employee should report the incident to any other manager of their choice.

Complaints need not be in writing but should include as much detail as possible, including the name(s) of the individual(s) involved and a description of the incident(s), including actions and/or comments made, place(s), date(s) and time(s).

The possibility of informal resolution may be explored and reached with the consent of all parties. If no informal resolution is sufficient, a formal and thorough investigation of the incident and surrounding circumstances will be undertaken, involving interviews with the complainant, the respondent, and any other individuals who may be able to provide information on the situation.

Filing an internal complaint with ABC Company does not limit an employee's right to file a complaint in connection with the incident or matter to the [*province*] Human Rights Tribunal.

Threats, attempts or actual incidents of physical or sexual assault are all criminal offences and can be reported to your local police service.

14. **NO RETALIATION**

Employees are reminded that ABC Company is committed to providing you a workplace free of discrimination in accordance with human rights and other laws and this Policy. Making you feel free to come forward and report incidents or concerns is an important part of our commitment. Accordingly, we wish to assure you that you won't be fired, demoted, reassigned, disciplined or subject to any other punishment or adverse treatment from ABC Company or its managers, supervisors and other representatives in retaliation for reporting discrimination, harassment or misconduct in good faith.

15. **INVESTIGATION**

All reports of violations of this Policy will be taken seriously and responded to immediately. Where it is determined that the report has merit, an internal investigation will be made by staff members not implicated or in any way involved in the complaint following the fair investigation procedures and protocols set out in the ABC Company Disciplinary Policy.

16. **DISCIPLINE**

Where acts of LGBT or other discrimination, harassment or misconduct are shown to have occurred, they will not be tolerated and will be responded to with appropriate disciplinary action, up to and including termination, based on a thorough investigation of the incident and the surrounding circumstances. Such disciplinary action may include immediate termination, even if the person committing the act has committed no prior offences.