

Transgender and the Workplace: Are You Discriminating?



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A growing number of private sector employers are now starting to include gender identity and expression in their non-discrimination policies. However, issues of gender identity and expression remain uncharted territory in many workplaces. Thus, employers and employees could engage in practices that discriminate against transgender persons.

For workplaces to be truly inclusive of transgender persons, it is important for employers to understand what transgender means. According to the American Psychological Association, it is a broad term that encompasses people whose gender identity is different from their assigned one and includes genderqueer, androgynous, multi-gendered, gender nonconforming and third gender. Once this understanding is in place (through inquiry, education and training), it will become easier for employers to consider and address transgender issues in the workplace.

Key issues that employers should turn their mind to, include:

- washroom access;
- attire;
- leave benefits;
- extended health benefits for gender reassignment related surgery;
- how to properly address the transitioning employee;
- providing education and training to co-workers and clients;
- proactively monitoring the workplace to spot and promptly address signs of discrimination; and
- listening and addressing concerns of co-workers.

A transitioning employee who wishes to come out, should consider:

- having a plan in relation to the coming out process;
- involving human resources regarding timelines relating to the transitioning plan;
- considering how the employee wishes to come out to colleagues and clients; for example, will the employee tell people themselves or would they like HR support?
- informing HR about specific needs/issues such as washroom access, name changes on official documents, health benefits for surgeries, time off for surgeries,

etc.; and

- how much information the employee wishes to share with colleagues.

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Heather is a lawyer, investigator and mediator, with a unique combination of legal expertise and extensive hands-on human resources management and labour relations experience. Prior to being called to the British Columbia Bar, she was a Human Resources Manager at the University of British Columbia and Labour Relations Advisor to Vancouver Community College.

Heather provides legal advice on all aspects of employment and labour issues arising in the union and non-union context through her law firm, Integritas Workplace Law. Heather also provides workplace mediation services, general human resources support to employers, and workplace investigation services. Heather is a frequent speaker and webinar presenter and regularly contributes articles on workplace issues.

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