



TRANSGENDER RIGHTS IN THE WORKPLACE

WHAT DOES "TRANSGENDER" MEAN?

Transgender is a term used to describe people whose gender identity differs from the sex they were assigned at birth. Gender expression is defined by the law to mean a "person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth." People who identify as transgender are protected by the provisions of California's Fair Employment & Housing Act prohibiting discrimination based on sex, gender, gender identity, and gender expression.

THERE ARE TWO KINDS OF GENDER TRANSITION

- 1 "Social transition" involves a process of socially aligning one's gender with the internal sense of self (e.g. changes in name and pronoun, bathroom facility usage, participation in activities like sports teams).
- 2 "Physical transition" refers to medical treatments an individual may undergo to physically align their body with internal sense of self (e.g. hormone therapies or surgical procedures).

A transgender person does not need to complete any particular step in a gender transition in order to be protected by the law. An employer may not condition its treatment or accommodation of a transitioning employee upon completion of a particular step in a gender transition.

FAQ FOR EMPLOYERS

What is an employer allowed to ask? Employers may ask about an employee's employment history, and may ask for personal references, in addition to other non-discriminatory questions. An interviewer should not ask questions designed to detect a person's sexual orientation or gender identity, including asking about their marital status, spouse's name, or relation of household members to one another. Employers should not ask questions about a person's body or whether they plan to have surgery, because this information is generally protected by the Health Insurance Portability and Accountability Act (HIPAA).

How do employers implement dress codes and grooming standards? California law explicitly prohibits an employer from denying an employee the right to dress in a manner suitable for that employee's gender identity. An employer who requires a dress code must enforce it in a non-discriminatory manner. This

means, for instance, that a transgender woman may not be held to any different standard of dress or grooming than any other woman in the workplace. And, in general, an employer may not impose any dress or grooming standard that is inconsistent with an individual's gender identity or gender expression, unless the employer can establish business necessity.

What are the obligations of employers when it comes to bathrooms, showers, and locker rooms? All employees have a right to safe and appropriate restroom and locker room facilities. This includes the right to use a restroom or locker room that corresponds to the employee's gender identity, regardless of the employee's assigned sex at birth. In addition, where possible, an employer should provide an easily accessible unisex single stall bathroom for use by any employee who desires increased privacy, regardless of the underlying reason. Use of a unisex single stall restroom should always be a matter of choice. No employee should be forced to use one either as a matter of policy or due to continuing harassment in a gender-appropriate facility. Under state law, all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency must be identified as all-gender toilet facilities.

FILING A COMPLAINT

If you believe you are a victim of discrimination you may, within one year of the discrimination, file a complaint of discrimination by contacting DFEH.

If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice). DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.

To schedule an appointment or to discuss your preferred format to access our materials or webpages, contact the Communication Center at (800) 884-1684 (voice or via relay operator 711) or (800) 700-2320 (TTY) or by email at contact.center@dfeh.ca.gov.

FOR MORE INFORMATION

Department of Fair Employment and Housing
Toll Free: (800) 884-1684 TTY: (800) 700-2320 dfeh.ca.gov

Also find us on:

