

Gender Transition Guidance

The Commonwealth of Virginia is committed to supporting diversity and inclusion in the workplace and treating all employees with dignity and respect. [Executive Order One](#) provides the foundation for a culture of inclusion, diversity, and mutual respect for all employees in state government.

According to the Commonwealth's [Equal Employment Opportunity Policy](#), the Commonwealth provides that all aspects of human resource management be conducted without regard to race, sex, color, national origin, religion, sexual orientation, gender identity, age, veteran status, political affiliation, genetics, or disability in accordance with the Governor's Executive Order on Equal Opportunity and state and federal laws. The guidance provided in this reference tool is designed to provide support for agency Human Resources staff and agency leadership for supporting employees undergoing gender transition. This guidance provides recommended approaches for ensuring successful outcomes for the transitioning employee and for the workplace.

Transgender is a broad term that defines a range of people who have a gender identity or gender presentation that is different than what is generally expected by society and that is different from the gender identified at birth. Transgender includes people who are transsexual, who cross-dress, and/or who are not gender-conforming.

In the workplace, there are several factors to consider when employees announce that they are transgender and/or are transitioning from their birth-identified gender. Below is a summary of some key workplace issues for employers to consider as they facilitate these types of situations.

Key Transgender Workplace Topics

When employees transition or announce that they are transgender, there are many workplace topics that must be considered. These include:

- Ensure clarity of organizational guidelines prohibiting (gender identity) bias. The organization should provide clarity to all employees around the prohibition of (gender identity) bias and the desire to create an inclusive environment that values and accepts the diversity of all employees.
- Transgender employee announcement to the employer. When an employee decides to announce a gender transition or announce that they are transgender, the employee may contact agency Human Resources staff or discuss it with the supervisor or manager (who should then discuss it with Human Resources with agreement from the employee). The discussion and situation should be treated with the sensitivity and confidentiality desired by the employee. Any information disclosed should not be shared with others without permission.

Questions from other employees about the transition should be referred to the transitioning/transgender employee or to someone whom the agency and employee have agreed to serve in this capacity for answering questions or providing communication.

- A transition plan for the workplace. The suggestion is for the employee, the manager, and agency Human Resources staff to work together to develop a transition plan including key dates, activities, and approaches based upon organization policy, guidelines, practices, or protocols. The plan may include actions for announcements, necessary administrative changes, and timelines.
- Announcement to the workplace. Part of the transition plan should include an announcement process. Depending on the type of role and interactions, the announcement process may include coworkers, other key leaders, and/or customers. It is recommended that the employee consider whether they want to be part of these announcements or if they should exclude themselves from these discussions if that may allow for more comfort in coworkers asking questions.

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- Addressing the employee once the transition has occurred or announcement has been made. Part of the transition plan and announcement process should include some education on how to address the employee once the transition has occurred or the announcement of transgender identification has occurred. This typically includes name changes and pronoun changes. Refer to the employee by the name and pronoun by which the employee wants to be called. If unsure, respectfully ask the employee what name and pronoun to use. Intentional misuse of the employee's name and pronoun, repeated reference to the former gender, and/or refusal to use the transitioned name and pronoun may be considered harassment in violation of state employment policy.
- Human Resources and other records changes. Certain records may need to be updated or changed after a transition has occurred. This may include gender identification, name records, social security records, computer accounts, email accounts, phone directories, business cards, security badges, office name tags, etc. The employee may need to provide updated legal documentation for these purposes. Of note, often situations can occur in which employers may receive no-match letters from the social security administration based upon gender mismatches or name mismatches. Employers should be aware of this and be sensitive to this type of information if received. If the employee's preferred name does not match the legal name, the preferred name may be used on non-legal documentation and the legal name used on legal and tax-related records. If medical information is provided, it should not be documented unless the information is required for benefits administration purposes or for compliance with an applicable law or policy. Medical information may be protected under the Health Insurance Portability and Accountability Act (HIPAA).
- Restroom and locker room usage. The transitioning/transitioned employee should be allowed to use the restroom and locker room according to their gender. The transitioning or transitioned employee should not be required to provide medical procedure documentation in order to use the restroom or locker room of their gender. In some cases, a unisex restroom may be used if available and desired by the transitioning/transitioned employee. If coworkers are uncomfortable, then they should be provided with reasonable alternative arrangements.
- Dress code. Dress code challenges may come into play. However, employers with gender neutral dress code policies usually do not face any new challenges from what they normally address with any employee. A transitioning employee will typically dress similarly to those in the identified gender role. Dress codes should be applied to transitioning employees in the same way that they are applied to other employees of that gender. Dress codes should not be used to prevent transgender employees from living consistent with their gender identity in their work roles.
- Benefits and needs for leave. As employees undergo a transition, they may utilize leave and other benefits according to policy requirements. [Benefits Management Policies](#)
- Hiring process. During the hiring process, hiring managers, interviewers, and agency Human Resources staff should be sensitive to the possibility of transitioning or transitioned applicants. In this situation, the applicant may be asked what name and pronoun is appropriate (e.g., when hiring documents indicate name differences). Those involved in the hiring process should be sensitive in these situations and should be sure to maintain confidentiality including with information obtained through necessary background checks.
- Other topics. Based upon different positions and situations, other topics may come into play (customer implications, situations in which gender is a bona-fide occupational qualification, etc.). These would tend to be less common and are best addressed through open dialogue and discussion to find the best solution.
- Harassment. If a transitioning/transitioned employee believes that harassment or retaliation has occurred or if other employees witness harassment or retaliation based on gender identity, harassment complaints may be submitted according to the procedures outlines in the [Workplace Harassment](#) policy.

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Outcomes

Many transgender employees have had successful outcomes in the workplace. In most cases, success has been dependent on open communications, understanding, and collaboration to design and implement an effective transition plan. This topic and process may create initial awkwardness for the employee, coworkers, customers, vendors, and others if not handled well. Key factors for employers include maintaining confidentiality of information (one note: many transitioning employees undergo medical treatments and may discuss these with the employer – this information likely is HIPAA protected), not allowing personal beliefs and preferences to influence business decisions, management support/leadership during this event and time, clarity around expectations for all parties.

Agency Support

Agencies may contact their assigned DHRM [Agency Human Resources Consultant](#) or the [the Commonwealth's Office of Equal Employment Opportunity](#) for additional support.

Key Definitions

Sex: the term which refers to the classification of people as male, female, intersex or another sex. At birth, infants are assigned a sex often based on physical anatomy.

Gender: refers to the behavioral, cultural, psychological, or social traits typically associated with one's sex, rather than biological characteristics.

Gender identity: An individual's internal sense of being male or female or both or neither regardless of sex assigned at birth.

Gender expression: appearance, mannerisms, and other personal behaviors or characteristics to communicate masculinity, femininity or androgyny. Examples include clothing, communication patterns, hairstyles, and voice or body characteristics. A person's gender expression may or may not be consistent with socially prescribed gender roles, and may or may not reflect an individual's gender identity.

Sexual orientation: a person's sexual or emotional attraction to other people. Heterosexuality, homosexuality or bisexuality are all sexual orientations. A person's sexual orientation is distinct from a person's gender identity and expression.

Transgender: An individual whose gender identity is different than the sex assigned at birth. Someone who was assigned the male sex at birth but who identifies as female is a *transgender woman*. Likewise, a person assigned the female sex at birth but who identifies as male is a *transgender man*. Some individuals who would fit this definition of transgender do not identify themselves transgender; rather, they identify simply as men and women, consistent with their gender identity.

Gender Transition or Transition: The process or time period when individuals begins to live consistent with their gender identity. Transition may involve changes in name or gender pronouns, hormone therapy, mental health support, or surgical procedures, however none of these steps are required.

Nonbinary or Genderqueer: Terms that refers to individuals who do not identify or express their gender within the gender binary of male or female. *Nonbinary or genderqueer* people may or may not identify as transgender.