INNclusive Advocacy

Becoming a more effective legal advisor and ally for individuals of all gender identities

October 2020 Pupilage Presentation
Hon. Robert J. Bryan Inn of Court

American INNS of COURT®

WA RPC 8.4 – Misconduct

It is professional misconduct for a lawyer to:
…

(g) commit a discriminatory act prohibited by state law on the basis of sex, race, age, creed, religion, color, national origin, disability, sexual orientation, honorably discharged veteran or military status, or marital status, where the act of discrimination is committed in connection with the lawyer's professional activities. In addition, it is professional misconduct to commit a discriminatory act on the basis of sexual orientation if such an act would violate this Rule when committed on the basis of sex, race, age, creed, religion, color, national origin, disability, honorably discharged veteran or military status, or marital status. This Rule shall not limit the ability of a lawyer to accept, decline, or withdraw from the representation of a client in accordance with Rule 1.16

Comment on ABA's Model Rule of Professional Conduct 8.4(g)

[3] Discrimination and harassment by lawyers in violation of paragraph (g) undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and anti-harassment statutes and case law may guide application of paragraph (g).

A Discussion on Gender Identity: Understanding Basic Terminology

It is common, and normal, for people to misunderstand or confuse terms that relate to gender identity. It is important to understand the differences on this journey for you and your child/adolescent. Here are some simple terms, although this does not cover all terms used in the LGBTQIA+ community.

Gender identity: A person's internal sense of being male, female, neither gender, or other gender

Natal Sex: The assigned sex a person is given at birth; male, female, intersex

Sexual Orientation: A person's physical, emotional, romantic and/or other forms of attraction towards others. This term is different than a person's gender identity

Gender Expression: The physical manifestation of a person gender identity through clothes, hair, voice, etc. This is HOW a person expresses their identified gender

Cisgender: A person who identifies with the gender and natal sex given at birth

Non-Binary/Agender/Gender Non-Conforming/Gender Neutral: Some examples of gender identities of folks who may not identify within the binary of social norms. People with these identities may or may not identify with a gender or genders and may have no association with gender at all. This person's gender expression may be different from societal expectations related to gender. Not all non-binary/agender people identify as trans* and not all trans* people identify as non-binary/gender

Transgender (trans or trans*): The descriptor used by those who do not identify with the gender they were given at birth. There is no "correct" way to be trans*. People who identify within the transgender community can be transitioning from male to female, female to male, identify as non-binary, gender non-conforming and many other identities

AMAB: Assigned male at birth

AFAB: Assigned female at birth

Pronouns: The terms society uses to identify people aside from a name (i.e. she/her, he/him, they/them, etc.). Pronouns are important in validating and respecting one's identity

Intersex: Individuals born with any of several variations in sex characteristics including chromosomes, sex organs, sex hormones or genitals that, do not fit the typical definitions for male or female bodies, or are ambiguous in nature. This range of atypical variation may be physically obvious from birth – babies may have ambiguous reproductive organs, or at the other extreme range it is not obvious and may remain unknown to people all their lives

GLAAD'S TIPS FOR ALLIES OF TRANSGENDER PEOPLE

The following are tips that can be used as you move toward becoming a better ally to transgender people. Of course, this list is not exhaustive and cannot include all the "right" things to do or say because often there is no one "right" answer to every situation you might encounter.

When you become an ally of transgender people, your actions will help change the culture, making society a better, safer place for transgender people - and for all people (trans or not) who do not conform to conventional gender expectations.

You can't tell if someone is transgender just by looking.

Transgender people don't look any certain way or come from any one background. Many transgender people do not appear "visibly trans," meaning they are not perceived to be transgender by others. It is not possible to look around a room and "see" if there are any transgender people. (It would be like a person looking around the room to "see" if there are any gay people.) You should assume that there may be transgender people at any gathering.

Don't make assumptions about a transgender person's sexual orientation.

Gender identity is different than sexual orientation. Sexual orientation is about who we're attracted to. Gender identity is about our own personal sense of being a man or a woman, or outside that gender binary. Transgender people can be gay, lesbian, bisexual, or straight.

If you don't know what pronouns to use, listen first.

If you're unsure which pronoun a person uses, listen first to the pronoun other people use when referring to them. Someone who knows the person well will probably use the correct pronoun. If you must ask which pronoun the person uses, start with your own. For example, "Hi, I'm Alex and I use the pronouns he and him. What about you?" Then use that person's pronoun and encourage others to do so. If you accidently use the wrong pronoun, apologize quickly and sincerely, then move on. The bigger deal you make out of the situation, the more uncomfortable it is for everyone.

Don't ask a transgender person what their "real name" is.

For some transgender people, being associated with their birth name is a tremendous source of anxiety, or it is simply a part of their life they wish to leave behind. Respect the name a transgender person is currently using. If you happen to know the name someone was given at birth but no longer uses, don't share it without the person's explicit permission. Similarly, don't share photos of someone from before their transition, unless you have their permission.

Understand the differences between "coming out" as lesbian, gay, or bisexual and "coming out" as transgender.

"Coming out" to other people as lesbian, gay, or bisexual is typically seen as revealing a truth that allows other people to know your authentic self. The LGB community places great importance and value on the idea of being "out" in order to be happy and whole. When a transgender person has transitioned and is living their life as their authentic self--that **is** their truth. The world now sees them as who they truly are. Unfortunately, it can often feel disempowering for a transgender person to disclose to other people that they are transgender. Sometimes when other people learn a person is trans, they no longer see the person as "real." Some people may choose to publicly discuss their gender history in an effort to raise awareness and make cultural change, but please don't assume that it's necessary for a transgender person to disclose that they are transgender in order to feel happy and whole.

Be careful about confidentiality, disclosure, and "outing."

Some transgender people feel comfortable disclosing their gender history, and some do not. A transgender person's gender history is personal information and it is up to them to share it with others. Do not casually share this information, speculate, or gossip about a person you know or think is transgender. Not only is this an invasion of privacy, it also can have negative consequences in a world that is very intolerant of gender diversity. Transgender people can lose jobs, housing, friends, or even their lives when other people find out about their gender history.

Respect the terminology a transgender person uses to describe their identity.

Transgender people use many different terms to describe their experiences. Respect the term (transgender, transsexual, non-binary, genderqueer etc.) a person uses to describe themselves. If a person is not sure of which identity

label fits them best, give them the time to figure it out for themselves and don't tell them which term you think they should use. You wouldn't like your identity to be defined by others, so please allow others to define themselves.

Be patient with a person who is questioning or exploring their gender identity.

A person who is questioning or exploring their gender identity may take some time to figure out what's true for them. They might, for example, use a name or pronoun, and then decide at a later time to change the name or pronoun again. Do your best to be respectful and use the name and pronoun requested.

Understand there is no "right" or "wrong" way to transition, and that it is different for every person.

Some transgender people access medical care like hormones and surgeries as part of their transition to align their bodies with their gender identity. Some transgender people want their authentic gender identity to be recognized without hormones or surgery. Some transgender people cannot access medical care, hormones, and/or surgeries due to a lack of financial resources or access to healthcare. A transgender person's identity is not dependent on medical procedures or their physicality. Accept that if someone tells you they are transgender, they are.

Don't ask about a transgender person's genitals, surgical status, or sex life.

It would be inappropriate to ask a non-transgender, or cisgender, person about the appearance or status of their genitals. It is equally inappropriate to ask a transgender person those questions. Don't ask if a transgender person has had "the surgery" or if they are "pre-op" or "post-op." If a transgender person wants to talk to you about such matters, they will bring it up. Similarly, it wouldn't be appropriate to ask a non-transgender person about how they have sex, so the same courtesy should be extended to transgender people.

Avoid backhanded compliments and "helpful" tips.

While you may intend to be supportive, comments like the following can be hurtful or even insulting:

"I would have never known you were transgender. You look so pretty."

"You look just like a real woman."

"She's so gorgeous, I would have never guessed she was transgender."

"He's so hot. I'd date him even though he's transgender."

"You're so brave."

"You'd pass so much better if you wore less/more make-up, had a better wig, etc."

"Have you considered a voice coach?"

Challenge anti-transgender remarks or jokes in public spaces, including LGB spaces.

You may hear anti-transgender comments from anti-LGBTQ activists, but you may also hear them from LGB people. Someone may think that because they're gay, it's ok for them to use certain words or tell jokes about transgender people. It's important to challenge anti-transgender remarks or jokes whenever they're said and no matter who says them.

Support all-gender public restrooms.

Some transgender and gender non-conforming people may not feel like they match the signs on the restroom door. Encourage schools, businesses, and agencies to have single user, unisex and/or all-gender restroom options. Make it clear that transgender and gender non-conforming people are welcome to use whichever restroom they feel comfortable using.

Help make your company or group truly trans-inclusive.

"LGBTQ" is now a commonplace term that joins lesbian, gay, bisexual, queer, and transgender people under the same acronym. If you are part of a company or group that says it's LGBTQ-inclusive, remember that transgender people face unique challenges, and that being LGBTQ-inclusive means truly understanding the needs of the trans community and implementing policies address that them.

At meetings and events, set an inclusive tone.

In a group setting, identify people by articles of clothing instead of using gendered language. For example, the "person in the blue shirt," instead of the "woman in the front." Similarly, "Sir" and "Madam" are best avoided. If bathrooms in the space are not already all-gender, ask if it's possible to put an all-gender sign on them. In some circumstances, where not everyone is known, consider asking people to introduce themselves with their names and pronouns. For example, "Hi, I'm Nick and I use he/him pronouns." Start with yourself and use a serious tone that will discourage others from dismissing the activity with a joke. However, if you feel this practice will have the effect of singling out the trans people in the room or putting them on the spot, avoid it. Remember, it costs cisgender people nothing to share their prounouns, but for trans people it can be a very serious decision.

Listen to transgender people.

The best way to be an ally is to listen with an open mind to transgender people speaking for themselves. Talk to transgender people in your community. Check out books, films, YouTube channels, and trans blogs to find out more about transgender people and the issues people within the community face.

Know your own limits as an ally.

Don't be afraid to admit when you don't know something. It is better to admit you don't know something than to make assumptions or say something that may be incorrect or hurtful. Seek out the appropriate resources that will help you learn more. Remember being an ally is a sustained and persistent pattern of action; not an idle or stable noun.

(Updated June 2020 / Adapted from MIT's "Action Tips for Allies of Trans People.") https://www.glaad.org/transgender/allies

2015 U.S. TRANSGENDER SURVEY

Washington State Report

The 2015 U.S. Transgender Survey (USTS) is the largest survey examining the experiences of transgender people in the United States, with 27,715 respondents nationwide. The USTS was conducted by the National Center for Transgender Equality in the summer of 2015. Of respondents in the USTS, 1,667 were Washington residents.[1] This report discusses the experiences of respondents living in Washington.

Income and Employment Status

- 14% of respondents in Washington were unemployed.[2]
- 28% were living in poverty.[3]

Employment and the Workplace

- 16% of respondents who have ever been employed reported losing a job in their lifetime because of their gender identity or expression.

- In the past year, 28% of those who held or applied for a job during that year reported being fired, being denied a promotion, or not being hired for a job they applied for because of their gender identity or expression.

- Respondents who had a job in the past year reported being verbally harassed (17%) and sexually assaulted (1%) at work because of their gender identity or expression.

- 23% of those who had a job in the past year reported other forms of mistreatment based on their gender identity or expression during that year, such as being forced to use a restroom that did not match their gender identity, being told to present in the wrong gender in order to keep their job, or having a boss or coworker share private information about their transgender status with others without their permission.

Education

- 79% of those who were out or perceived as transgender at some point between Kindergarten and Grade 12 (K–12) experienced some form of mistreatment, such as being verbally harassed, prohibited from dressing according to their gender identity, disciplined more harshly, or physically or sexually assaulted because people thought they were transgender.

  - 57% of those who were out or perceived as transgender in K–12 were verbally harassed, 26% were physically attacked, and 14% were sexually assaulted in K–12 because of being transgender.

  - 21% faced such severe mistreatment as a transgender person that they left a K–12 school.

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- 25% of respondents who were out or perceived as transgender in college or vocational school were verbally, physically, or sexually harassed because of being transgender.

Housing, Homelessness, and Shelter Access

- 26% of respondents experienced some form of housing discrimination in the past year, such as being evicted from their home or denied a home or apartment because of being transgender.
- 37% have experienced homelessness at some point in their lives.
- 13% experienced homelessness in the past year because of being transgender.
- 33% of respondents who experienced homelessness in the past year avoided staying in a shelter because they feared being mistreated as a transgender person.

Public Accommodations

- Respondents reported being denied equal treatment or service, verbally harassed, or physically attacked at many places of public accommodation—places that provide services to the public, like retail stores, hotels, and government offices.
- Of respondents who visited a place of public accommodation where staff or employees thought or knew they were transgender, 33% experienced at least one type of mistreatment in the past year. This included 15% who were denied equal treatment or service, 25% who were verbally harassed, and 2% who were physically attacked because of being transgender.

Restrooms

- 8% of respondents reported that someone denied them access to a restroom in the past year.
- In the past year, respondents reported being verbally harassed (13%) and physically attacked (1%) when accessing a restroom.
- 61% of respondents avoided using a public restroom in the past year because they were afraid of confrontations or other problems they might experience.
- 34% of respondents limited the amount that they ate or drank to avoid using the restroom in the past year.

Police Interactions

- Respondents experienced high levels of mistreatment and harassment by police. In the past year, of respondents who interacted with police or other law enforcement officers who thought or knew they were transgender, 60% experienced some form of mistreatment. This included being verbally harassed, repeatedly referred to as the wrong gender, physically assaulted, or sexually assaulted, including being forced by officers to engage in sexual activity to avoid arrest.
- 58% of respondents said they would feel uncomfortable asking the police for help if they needed it.
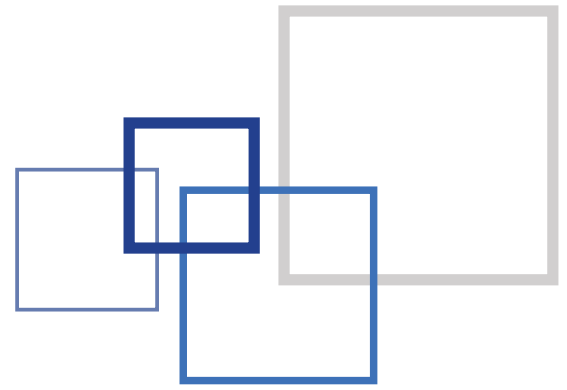
Health

- 29% of respondents experienced a problem in the past year with their insurance related to being transgender, such as being denied coverage for care related to gender transition or being denied coverage for routine care because they were transgender.

- 38% of those who saw a health care provider in the past year reported having at least one negative experience related to being transgender. This included being refused treatment, verbally harassed, or physically or sexually assaulted, or having to teach the provider about transgender people in order to get appropriate care.

- In the past year, 22% of respondents did not see a doctor when they needed to because of fear of being mistreated as a transgender person, and 32% did not see a doctor when needed because they could not afford it.

- 38% of respondents experienced serious psychological distress in the month before completing the survey (based on the Kessler 6 Psychological Distress Scale).[4]

- 13% of respondents reported that a professional, such as a psychologist, counselor, or religious advisor, tried to stop them from being transgender.

Identity Documents

- Only 14% of respondents reported that *all* of their IDs had the name and gender they preferred, while 62% reported that *none* of their IDs had the name and gender they preferred.

- The cost of changing IDs was one of the main barriers respondents faced, with 32% of those who have not changed their legal name and 30% of those who have not updated the gender on their IDs reporting that it was because they could not afford it.

- 32% of respondents who have shown an ID with a name or gender that did not match their gender presentation were verbally harassed, denied benefits or service, asked to leave, or assaulted.

ENDNOTES | WASHINGTON STATE REPORT

1. The number of respondents in Washington (n=1,667) is an unweighted value. All reported percentages are weighted. For more information on the weighting procedures used to report 2015 U.S. Transgender Survey data, see the full survey report, available at www.USTransSurvey.org.

2. For reference, the U.S. unemployment rate was 5% at the time of the survey, as reported by the Bureau of Labor Statistics. See the full report for more information about this calculation.

3. For reference, the U.S. poverty rate was 12% at the time of the survey. The research team calculated the USTS poverty measure using the official poverty measure, as defined by the U.S. Census Bureau. USTS respondents were designated as living in poverty if their total family income fell under 125% of the official U.S. poverty line. See the full report for more information about this calculation.

4. For reference, 5% of the U.S. population reported experiencing serious psychological distress during the prior month as reported in the 2015 National Survey on Drug Use and Health. See the full report for more information about this calculation.

2015 U.S. Transgender Survey
Washington State Report

May 2017

Merf Ehman is a Washington attorney and Executive Director of Columbia Lega Services.

Watch Merf's 2019 TEDx presentation on thinking beyond the gender binary construct here:

https://www.ted.com/talks/merf_ehman_what_gender_rules_do_you_unconsciously_follow?language=en

What gender rules do you unconsciously follow? | Merf Ehman | TEDxBellevueWomen

Though personal experiences, Merf will explore what the world looks like if an "F" or an "M" is not quite the right fit and how this assignment at birth impacts us throughout our lifetime. In this talk, Merf will share what is possible if we think outside the binary model of gender and how in doing so, it can make us all a little freer. Merf Ehman is the executive director of Columbia Legal Services (CLS) leading organization-wide efforts to prioritize advocacy that supports community-led social justice movements that transform racialized systems and eradicate racism.

More than 25 years ago, Merf was a client in a welfare-to-work program at a local legal aid office, and now leads a legal aid organization working to change the world for the better. Merf's life experience has been informed by other people believing that Merf could be more, and do more, than the limited options that felt available. People and institutions supported Merf in moving beyond the challenges of poverty, mental illness, and substance abuse to an unimaginably wonderful life. Additionally, Merf prefers to be as pronoun free as possible. This talk was given at a TEDx event using the TED conference format but independently organized by a local community.

Learn more at https://www.ted.com/tedx

Creating a Trans-Inclusive Workplace

by Christian N. Thoroughgood , Katina B. Sawyer and Jennica R. Webster

From the March–April 2020 Issue

For most of us, work is stressful in and of itself. Imagine carrying the added emotional weight of having to deny and suppress one of the most fundamental aspects of who you are—your gender identity—because it doesn't conform with society's norms regarding gender expression. And imagine how it would feel if you revealed your authentic self to those you work with and see every day, only to have them reject, ostracize, or ignore you as a result. (Maybe you do not have to imagine at all.)

These issues are pervasive for many trans people, who often experience stigma and discrimination, hostility, and pressure to "manage" their identities in social settings—including the workplace—to suit the expectations of others. Such experiences can set in motion a host of psychological responses that have devastating consequences for trans individuals' emotional well-being, job satisfaction, and inclination to remain with an employer.

Despite a growing global awareness of the struggles trans people face, many employers remain ill-equipped to create the policies and workplace cultures that would support trans employees. Part of the problem is a lack of knowledge about these challenges. Indeed, even companies that are LGBTQ+-friendly usually focus more on the "LGB" than on the "TQ+."

The overriding reason to address this issue is that it's simply the right thing to do. Nobody who works hard and contributes to an organization's success should ever have to feel stigmatized and fearful of coming to work each day. But that's not the only reason. A failure to adopt trans-specific policies and practices can cost businesses dearly in the form of higher turnover, decreased engagement and productivity, and possible litigation. Discriminatory behavior in general also hurts the company's brand.

Fortunately, research on how employers can more effectively attract, retain, and promote the well-being and success of their trans employees is growing. Although we are not members of the trans community, we've spent the past seven years learning from a diverse population of trans people in the course of our research as organizational psychologists specializing in gender-related issues. We've interviewed and surveyed more than 1,000 trans employees from a range of industries and professions throughout North America. In this article we share their voices and experiences and outline what we've learned.

The Roots of Stigma and Discrimination

Why do trans individuals so often face stigma and discrimination? The answer resides in how people are socialized to understand and enact gender. A large body of scholarly research in social and developmental psychology has demonstrated that gendered behavior is *learned*: From a young age, boys and girls are encouraged to display stereotypically gendered behaviors and discouraged from displaying non-normative ones. Just think about the tradition of giving pink items to baby girls and blue items to baby boys. The preference for these colors has no biological roots; in fact, pink was once considered the more "masculine" color. Yet over time little boys come to prefer blue and little girls come to prefer pink; they are subtly rewarded for liking their respective colors and may even be chastised for liking the other color. Moreover, children pick up on subtle signals from their parents and important others who enforce gender stereotypes. For example, when donning female garments during dress-up, girls might[16] be told they look pretty, while boys might be

told they look silly. Children seek to fulfill gender expectations in order to secure parental and, later, peer acceptance. As we grow up, it becomes difficult to distinguish between expressions of gender we actually prefer and those we have been socially rewarded for.

As a result of this socialization, gender norms provide perhaps the most basic organizing framework by which people define themselves and others. And because they are widely shared and deeply rooted, they are extremely difficult to change. Thus trans people face a unique quandary. For example, when a trans woman—whose sex was assigned male at birth and who knows herself to be female—adopts typically female clothing and jewelry, she breaks with expectations regarding how she should define and express her gender.

Unfortunately, such situations most often mean that trans individuals are stigmatized—that is, socially devalued—providing a basis for discrimination against them. Studies suggest that the costs of that stigma and discrimination are steep. For example, a 2015 survey of 27,715 trans individuals residing in the United States revealed that a staggering 77% of those who had held a job in the year prior took active steps to avoid mistreatment at work, such as hiding their gender identity, delaying their gender transition (or living as their true selves only after work and on weekends), refraining from asking their employers to use their correct pronouns (*he, she, they, ze*), or quitting their jobs. Sixty-seven percent reported negative outcomes such as being fired or forced to resign, not being hired, or being denied a promotion. And nearly a quarter reported other types of mistreatment based on their gender identity or expression—for example, being required to present as the sex assigned to them at birth to keep a job, having private information about their trans identity shared without permission, or being denied access to bathrooms that align with their gender identity. Such experiences may be compounded for a trans person who holds more than one stigmatized identity—for example, a black trans woman.

A lack of trans-specific policies can lead to higher turnover and even litigation.

Research also suggests that stigma and discrimination can result in ruminative thoughts, a negative self-image, hopelessness, social isolation, and alcohol abuse or other dysfunctional coping behaviors. Such responses pave the way for even greater mental health challenges,

including major depression and anxiety.

In one of our own investigations, we collected daily survey data from 105 trans employees in the United States across two workweeks. The results revealed that 47% of participants experienced at least some discriminatory behavior on a daily basis at work, such as being the target of transphobic remarks, being ignored, or being pressured to act in "traditionally gendered" ways. They reported robust increases in hypervigilance and rumination at work the day following such an experience. The extent to which they had to be "on guard" around their coworkers and try to make sense of negative events predicted their emotional exhaustion during the workday.

In another study, this one involving 165 trans employees from various industries and occupations in North America, we replicated those results and extended them to other outcomes, including diminished job satisfaction and a greater desire to quit. One trans woman, an educator, who felt deeply unsupported by the administration after she reported being harassed, told us, "Students were being removed from my class, rumors were spread about me, and it just wasn't a great place to be working anymore." Another trans woman, who worked in retail, recalled that her direct supervisor joked about trans individuals and that customers would tell her not to bring her "lifestyle" into the workplace. As a result, she said, "I'm constantly aware of who is around me at all times. And when I'm around other people, it makes me very unsettled." A trans man in the business sector echoed this intense sense of distress: "Most of my stress that comes from work is related to just anxiety and worry [about interactions with coworkers], just constantly wondering about things that have happened and what might happen."

Employers should be aware of the business costs of ignoring these issues. A March 2012 report by the Center for American Progress indicated that companies in the United States lose an estimated $64 billion annually as a result of having to replace employees who departed because of unfairness and discrimination; many of those individuals were members of the LGBTQ+ community.

Hostility and discrimination also increase absenteeism, undermine commitment and motivation, and decrease productivity. A recent study by the Human Rights Campaign found that employee engagement declines by as much as 30% in unfriendly work environments. Although the study focused on LGBTQ+ employees more broadly, its findings are no doubt representative of trans people's experiences. In addition to hiding who they are at work, which LGB individuals often must do with respect to their sexual identity, trans people must hide their gender expression, including how they dress, speak, and present themselves.

Discriminatory workplaces also prevent companies from attracting and retaining top talent. When employers, whether knowingly or unknowingly, fail to address prejudicial behavior, they send a potent message about their indifference and develop an external reputation for being an unwelcoming place to work. (According to the Level Playing Field Institute, one in four people who experience unfairness in the workplace report being highly unlikely to recommend their organization to others.) Furthermore, laws relating to gender identity and expression, although still severely lacking in the aggregate, are evolving at the local, state, and federal levels—creating greater obligations for employers. Without comprehensive strategies for addressing issues around gender identity and expression, organizations risk being sued. Those legal actions can be expensive to litigate, distracting to business activities, and damaging to a company's reputation, in addition to involving costly payouts. But it is our hope that companies will approach trans inclusivity from a moral and ethical standpoint rather than a purely economic one.

Supporting Your Trans Workforce

Organizations should not wait for the courts to determine that trans individuals are fully protected under the law. Instead they should proactively incorporate gender-identity-specific nondiscrimination policies and practices throughout their businesses. That involves two key issues: protecting and promoting the rights of people of all gender identities and expressions, and increasing employees' understanding and acceptance of their trans colleagues. In a meta-analysis we conducted with Cheryl Maranto and Gary Adams, we found strong links between the degree to which employers enact these practices and the job attitudes, psychological well-being, and disclosure decisions of LGBTQ+ community members. In another study, focused specifically on trans employees, Enrica Ruggs and her

coauthors found that the presence of trans-supportive policies was positively related to participants' openness about their identities and their decreased experiences of discrimination at work. However, such effects are likely to occur only when leaders model these policies consistently in both words and behavior. Also, it should be noted that effective diversity and equity practices have been found to positively impact the productivity of all employees.

Gender Expression and Employment Law

Laws regarding gender and gender expression are constantly evolving and differ according to location. In the United States no federal law prohibits discrimination against trans people, and only 19 states have explicit protections for trans workers. Additionally, the Religious Freedom Restoration Act of 1993 makes it more difficult for trans employees to file discrimination complaints against employers who justify their practices on religious grounds. Using religious freedom as a rationale, certain states have enacted laws to revoke or prohibit equal protections for trans individuals. Although gender expression has been covered in some court cases under the broader sex-discrimination protections within Title VII of the Civil Rights Act, in the absence of a federal law it remains up to the courts to decide case outcomes according to their interpretations of prior case law. Indeed, the U.S. Supreme Court in 2019 began deliberating over whether Title VII sex protections extend to LGBTQ+ populations.

Here are four practices that we recommend employers adopt. Further resources can be found through professional associations such as the Society for Human Resource Management and nonprofit organizations such as the Human Rights Campaign, Out & Equal, and the Transgender Law Center.

1. Adopt Basic Trans-Inclusive Policies

An extensive body of social psychology research suggests that human beings are highly attuned to signals regarding the value ascribed to them by others. To one degree or another, we all have a basic need to belong and a prewired, unconscious monitoring system that tracks the quality of our relationships. When we detect signs of social devaluation (apathy, disapproval, or rejection), we experience negative emotions and a loss of self-esteem. When we detect signs of social valuation (praise, affection, or admission to a desired group), just the opposite occurs. Thus inclusive policies and practices—such as those related to bathroom access, dress codes, and pronoun and name

At the global level, laws regarding gender expression vary widely. Many countries, including the United Kingdom, Spain, and South Africa, have trans-specific antidiscrimination protections. However, being trans is punishable by law in countries such as Saudi Arabia, Nigeria, and Malaysia. In many other countries, as in the United States, being trans is neither punishable nor protected, leaving oft-discriminated-against trans people in a state of uncertainty regarding their status as equal citizens under the law. When doing business in a global environment, it is vital to be mindful of how protections may vary and what this may mean for the safety and well-being of trans employees. Even when operating within intolerant cultural contexts, it is important to practice inclusivity consistently.

usage—send vital messages to trans employees about their value as organizational members.

Bathroom access.

Instituting gender-neutral bathrooms or encouraging trans employees to use bathrooms that align with their gender identity is one important way to signal to those employees that they are valued. Diversity trainings should educate other employees on the importance of being accepting and welcoming when they find themselves in a company bathroom with a trans coworker. One of our participants, a trans man working in business, said, "When I started using the men's room at work, a number of men didn't like it. An engineer, a cisgender man in his forties who didn't work with me directly, went out of his way to make me feel safe and welcome in the men's room, and I was extremely grateful."

Some have suggested that allowing employees to use bathrooms that align with their gender identity will increase the risk of sexual harassment and assault against women. But a 2018 report published in *Sexuality Research and Social Policy* suggests that such incidents in bathrooms are rare, regardless of any gender-identity policy on bathroom usage. In fact, harassment and assault generally are most often perpetrated by straight, cisgender males against straight, cisgender females.

Dress codes.

Some organizations, including Accenture, have begun to regionally implement gender-neutral dress codes. By making explicit that all employees may select from a range of options, such as dress shirts, pantsuits, and skirt suits, companies can help destigmatize varying expressions of gender. Such policies may also aid in recruitment and retention by signaling that normativity is not expected.

Pronoun and name usage.
Another way to signal to trans employees that they are valued is to pay serious attention to their correct names and pronouns. Many trans people identify on the traditional binary scale—as either male or female—and thus use *he, him,* and *his* or *she, her,* and *hers* as pronouns. Yet many others who also fall under the broad category "trans"—such as genderqueer, gender-fluid, and nonbinary individuals—use alternative pronouns, such as *they, them,* and *theirs* or *ze, zir,* and *zem.*

It's clear from our conversations and research that the "misgendering" of trans employees, whether intentional or unintentional, is relatively common at work. A onetime slipup—such as using an incorrect pronoun for a colleague who has recently transitioned—may be considered an honest mistake. (One should apologize, move on, and make sure to get it right the next time.) Using the right pronouns and names on a regular basis can be more meaningful than one might think. When asked to reflect on courageous acts coworkers had performed in support of the rights of trans employees, many of our participants recalled instances in which a cisgender employee guided others on proper pronoun usage. A simple "Katie uses 'she' as a pronoun" works, as does a gentle correction: "Have you seen him?" "Yes, I saw her in the conference room."

Employers can address this issue in several ways. First, they can keep records of employees' chosen names and correct pronouns; this helps ensure that whenever possible, appropriate terms will be used for personnel and administrative purposes, such as directories, email addresses, and business cards. Second, encourage all employees to use name badges and email signatures that include their desired names and correct pronouns; this enables people to learn those names and pronouns and cultivates awareness of the varying gender identities that colleagues may possess. Third, take advantage of training programs, onboarding initiatives, and employee handbook content to make clear that proper pronoun

usage is part of creating an environment in which all employees feel valued and respected. Goldman Sachs, for example, recently launched an internal campaign to make employees more aware of the importance of pronouns and to encourage them to proactively share their pronouns with colleagues.

2. Support Gender Transitions

Transitioning is not a single event but, rather, a *process,* which begins with a deeply personal decision that usually results from years of soul-searching. The decision to come out, or disclose, at work is also complicated. People weigh the positive consequences of doing so (freedom from living a "double life" and expression of one's true self) against the negative ones (potential rejection and career ramifications). One of our study participants, a trans woman in the transportation industry, told us, "After nearly a year of soul-searching, research, therapy, support group attendance, and deep personal reflection, I 'came out' to my supervisor as transgender....I finished talking, paused, and waited for her reply. My heart was in my throat. I knew this meeting might forever change the way she thought of me, and that I could not un-say what had been said."

Then the woman recounted her boss's reaction: "After a few moments, her very first words were 'We're not just a team here, we're a family, and this is your home. You have the right to be who you are and to be treated with respect and dignity. I will do everything I can to make sure your transition is as smooth and trouble-free as it can be.' She then got busy arranging meetings with the head of the department and the head of HR."

Someone deciding to transition chooses what that process will look like and how long it will take. A transition may involve gender-confirmation surgery (not all trans people undergo medical procedures). Some gender-fluid individuals spend their lives transitioning between and within various gender expressions, as they continually reinterpret and redefine themselves. Employers must develop a comprehensive approach to managing gender transitions—one that focuses on the employee but also on cultivating a work environment conducive to the transition process.

First, helping transitioning employees who elect medical procedures to cover costs—and making sure they have access to health care benefits that are gender-identity-specific—can reduce the stress and anxiety of coming out at work. Such commitment sends a highly affirming message to trans employees about their value.

Second, it is paramount that employees be asked what they need during their transitions and how they would like the process handled. Only by listening to and collaborating with them can employers ensure that people are not inadvertently "outed" without permission or before they're ready.

Third, if approached by an employee, an HR manager can provide information concerning where to learn more about treatment options, organizational support groups, and other available resources and can develop strategies to help the employee manage work/life issues that may arise during the process. Including direct supervisors in such meetings, if the employee feels comfortable with this, can promote empathy and aid in crafting flexible and informed plans adapted to each individual's unique needs. Google, Cigna, and Chevron have implemented such initiatives.

Fourth, and equally important, our research suggests that leaders and managers must proactively cultivate a supportive work environment. The period of transitioning is particularly sensitive; indeed, individuals may be ostracized or pressured by peers to suppress their identities during this time, increasing their susceptibility to depression, anxiety, and even suicidal thinking. Moreover, any trans person seeking surgery will be questioned by the surgical team about the existence of support networks, which are often required for someone who is seeking gender-confirming procedures. Thus having supportive policies and plans in place will remove one or more barriers to care for trans employees.

Kirsten Ulve

Authority figures who model trans-inclusive behaviors on a consistent basis are crucial to creating a supportive environment. Many of our participants said they would not have felt comfortable inquiring about transition benefits, much less been successful in their transitions, if senior leaders and frontline managers had not shown support, which tends to have a trickle-down effect on lower-level employees. Top leaders can do this in various ways, such as by attending or presenting at conferences about trans-specific issues, publicly championing gender-inclusive dress codes and bathroom usage initiatives, and using their correct names and gender pronouns.

Of course coworkers play a key role as well. In a recent study using interview and survey data from 389 trans employees and conducted with Larry Martinez, Enrica Ruggs, and Nicholas Smith, we found that those who were relatively far along in their transitions were more satisfied with their jobs, felt a greater sense of "fit" in their workplaces, and reported less discrimination than those who had not transitioned or were less far along in the process. We also found that this effect was explained *not* by participants' sense of consistency between their inner gender identity and their outward expression of gender—what is referred to as *action authenticity*—but, rather, by the perception that coworkers had the same understanding of their gender that the participants did, which is known as *relational authenticity*. One participant, a trans man who works as a museum curator, said, "There was a point where people started seeing me as just one of the guys. And I think that at that point I started feeling like I fit in a lot better. It's the individuals [coworkers] who make that possible." In a poignant example from a separate study, a trans woman in manufacturing reported a moment at a company function: "I appeared in a dress for the first time at a party. One of the housekeeping aides grabbed my hand and pulled me onto the dance floor in front of everyone. His courage in accepting who I was in front of all our coworkers can bring me to tears to this day."

To help in cultivating supportive relationships, work groups should be told when those who are transitioning will be out of the office, whether they will return part-time, and what work will have to be covered during their absence. Emphasizing the need for coworkers to show sensitivity, provide emotional support, and act in ways that affirm the gender identity of their colleagues is crucial. For example, people can make it clear that they are available to talk about any issues related to transitioning or gender expression—while following trans

employees' lead about when and where to have those conversations. That approach enhances feelings of support and care and allows trans employees to be comfortable having honest conversations with their colleagues. Even well-intentioned employees may be nervous about their ability to support a colleague through a transition, and employers can help ease some of their anxiety by taking the above steps.

3. Develop Trans-Specific Diversity Training

More general training on gender-identity topics is also essential. Although media coverage has helped facilitate conversations about gender identity and expression, corporate diversity trainings still have room for improvement. We offer two recommendations:

1. Include contact with those who identify along the trans identity spectrum.
A large body of research on the "contact hypothesis" suggests that providing opportunities to build relationships with specific groups—to hear their stories, appreciate their challenges, and gain empathy—is critical for shifting attitudes and behavior toward them. However, it is not the responsibility of members of the LGBTQ+ community to educate others or to be visible in this way; "out" trans employees should be included in trainings only if they are willing. If they're not, many corporate training firms and LGBTQ+ nonprofit organizations offer training of this nature.

2. Help cisgender employees develop the skills to become informal champions of their transgender colleagues.
Research suggests that many people lack the knowledge and confidence to challenge prejudice. That's why some companies have sought to equip their employees, especially leaders, with concrete strategies for stepping out of their comfort zones and engaging in "courageous conversations" regarding difficult diversity-related topics. For example, an employee who witnesses biased behavior is encouraged to respectfully but directly call it out. That might mean pulling someone aside to explain the potential damage from a biased comment, or having coffee with someone to tactfully share why a behavior was noninclusive. The chairman of PwC launched the CEO Action for Diversity & Inclusion coalition to normalize diversity-related conversations across top-level leaders in large companies. At Bank of America employees are encouraged to discuss gender, race, and other identity-related issues in a respectful, learning-focused manner.

These efforts pay off. In a forthcoming study we will report that cisgender employees who challenge noninclusive policies and behavior send an important message of inclusion to their trans colleagues. Our findings suggest that these behaviors may come in three related forms: *advocacy*, such as taking the initiative to publicly support trans causes; *defending*, such as protecting trans coworkers from judgment or hostility; and *educating*, such as spreading awareness of trans issues in the organization. We found that trans individuals who had recently witnessed these behaviors tended to report an increased sense of worth as organizational members, were more satisfied with their jobs, and were less emotionally depleted by work.

One trans man in government recalled feeling immense gratitude toward his assistant when she spoke out after he was treated poorly by a manager. "This came about as I sat at a lunch table at an empty chair," he recalled. "When he saw I was sitting there, [he] jumped up like he had sat next to a very large spider. She [my assistant] voiced, 'Scott, that was so rude'—twice! That brought me to an island of relief." Courageous acts like this predicted individuals' job satisfaction and well-being a full six weeks later.

Gender Identity and Expression: A Glossary

People have differing language to describe who they are and how they want to label their identities. The terms below are frequently used, but we acknowledge that these and other definitions are constantly evolving. Further, it's important to note that individuals know their own identity best and should always be consulted about how they'd like to be referred to. (For more, see the Human Rights Campaign's glossary of terms.)

Cisgender

A gender identity that aligns with the sex assigned at birth.

Despite the good intentions of many cisgender employees, however, trans people may not always want others to represent their interests, especially when those others lack in-depth knowledge of the various issues, challenges, and nuances surrounding their work and life experiences. And research suggests that employees who possess a "savior mentality" (that is, are motivated by a desire to be perceived as good people) may end up doing more harm than good. Accordingly, HR practitioners should train employees to appropriately ask whether trans colleagues prefer to speak up for themselves. (If they wish to be, trans employees should be involved in this training.) The simple act of

Gender Expression

The ways in which people—trans or not—choose to convey their gender identity through dress, verbal communication styles, and other outward behavior.

Gender Fluid

Refers to people who feel more male, more female, or some combination of the two at various times, and who therefore express their gender identity more dynamically over time.

Gender Identity

How one understands one's own gender, regardless of the sex assigned at birth.

Genderqueer

A gender identity and expression that are not tied to a traditional male/female view of the gender spectrum. Those who identify as genderqueer may identify as men or women, as neither, or as some combination of the two.

Trans

An umbrella term for cases in which gender does not align with societal expectations regarding the sex assigned at birth. Some people who fall under the umbrella decide to transition; others do not, because they don't define themselves according to the traditional male-female binary or because they have a more fluid view of their identity over time.

consulting before taking action gives a trans person agency and autonomy in deciding how the situation should be handled.

4. Utilize Interventions to Build Resiliency

Research also supports the idea that trans individuals can benefit from interventions to help them manage their stress. In a recent two-week experience sampling study of ours, we found evidence to suggest that mindfulness—a state of nonjudgmental attention to present-moment experiences—can insulate trans employees from emotional exhaustion the day after experiencing a stigmatizing event at work. This effect was explained by a reduction in defensive, distrustful patterns of thinking such as hypervigilance and rumination.

Unfortunately, it's not realistic to assume that prejudice toward trans employees will be eliminated quickly and easily through workplace initiatives. Such changes take time. And although the main goal of employers should be to root out prejudice at a structural level through formal diversity policies and practices, it's also important to offer tools—such as mindfulness training, cognitive behavioral training, and self-compassion training—for reducing the harmful outcomes that stigma creates in marginalized populations.

Transgender

A gender identity that does not align with the sex assigned at birth. For example, a transgender woman is someone whose sex assigned at birth was male.

CONCLUSION

Only when people feel totally authentic and connected with their organizations can they achieve their full potential at work. Trans employees are no exception. Yet few companies have succeeded in creating an inclusive work environment for people who don't identify with societal gender norms. We hope that the research and the proactive steps we've outlined will help change that. Employers that get this right aren't just being savvy from a business standpoint. They are also crafting a corporate legacy—one in which human dignity is prioritized and doing the right thing by employees is regarded as fundamental to success.

Editor's note: In two instances, this article referred to "preferred names" or "preferred pronouns." These names and pronouns aren't, in fact, preferred; they are simply the correct names and pronouns for individuals. The article has been updated accordingly.

A version of this article appeared in the March–April 2020 issue of *Harvard Business Review*.

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