THE DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

# TRANSGENDER RIGHTS IN THE WORKPLACE

## WHAT IS TRANSGENDER?

**People who identify as transgender are protected by California's Fair Employment & Housing Act. Our law uses the phrases "sex, gender, gender identity and gender expression." 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."**

## TWO KINDS OF GENDER TRANSITION

### 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).

### PHYSICAL TRANSITION

refers to medical treatments an individual undergoes 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 on completion of a particular step in the transition.

## FAQ FOR EMPLOYERS

**WHAT IS AN EMPLOYER ALLOWED TO ASK?**

Employers may ask about an employee's employment history, and may still 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 his/her 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 STILL 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 must be allowed to dress in the same manner as non-transgender women, and that her compliance with such a dress code cannot be judged more harshly than non-transgender women.

**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. A private restroom of this type can also be used by an employee who does not want to share a restroom with a transgender coworker. However, 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.

**IF YOU BELIEVE YOU ARE VICTIM OF ILLEGAL DISCRIMINATION, YOU CAN FILE A COMPLAINT WITH THE DEPARTMENT.**

To File a Pre-Complaint Inquiry you may select one of the following methods:

⇒ Use the Department's online system at http://www.dfeh.ca.gov

⇒ Call the Communication Center at **800-884-1684** (voice)
If you are deaf or hard of hearing, please call 800-884-1684 (voice) or 800-700-2320 (TTY) reach us through California's Relay Service by dialing 711 or by e-mail to contact.center@dfeh.ca.gov

⇒ Use the Pre-Complaint Inquiry form that matches your issue, complete and return it via U.S. mail to any of DFEH's office locations (www.dfeh.ca.gov/offices.htm)

⇒ E-mail the Pre-Complaint Inquiry form: contact.center@dfeh.ca.gov

If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, the DFEH can assist you by scribing your pre-complaint by phone or for individuals who communicate by American Sign Language through the relay system.

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