



## **Why U.S. Government Agencies Need Comprehensive Policies for Employees with Various Gender Identities**

**Nicole Elias**, City University of New York

Sex and gender identities are becoming increasingly complex in America, creating new challenges for public administrative agencies. So far, the vast majority of U.S. federal agencies lack comprehensive transgender employee policies – which are currently in place for only nine of approximately 235 federal agencies (including sub-agencies). Yet as the workforce evolves, federal employment policy must accommodate the needs of employees who do not fit traditional sex and gender categories – and particular attention needs to be paid to formulating policies specifying the responsibilities of employers when their employees undergo transitions meant to shift their anatomy or appearance to align with their gender identity.

### **What Should a Transgender Policy Include?**

Employee policies specifically fashioned by agencies to deal with transgender issues should, at a minimum, cover matters that arise when employees undergo transition processes; restrooms and locker rooms; dress codes; and the use of proper names and pronouns. Many benefits come from transgender-specific employee policies. Such measures can educate supervisors and coworkers about what to expect when someone transitions in the workplace and, by providing protocols to follow, help supervisors and coworkers become more comfortable with and supportive of workplace transitions. Transgender employees also benefit and gain a sense of security when specific policies are in place. Each federal agency should create its own internal set of transgender-relevant policies, to educate all employees and help transgender employees understand their rights and know where to go for assistance. More can be said about each of the major issues a good policy needs to address.

### **When Employees Go through Transitions**

In the absence of a comprehensive transgender policy, most agencies are left unprepared when employees change their anatomy or appearance to align with their felt gender identity. An effective way to prepare for such processes is to spell out the agency's workplace transition protocol. Without such an explicit plan, transgender employees who want to transition do not know where to go to begin the process or where they can find answers about what a transition might entail for an agency employee. Additionally, without a standard set of practices, agencies do not know what is required to change all applicable records. Confusion can leave transgender employees scrambling to deal with many different record changes. Submitting requests and medical records to many places can be unnecessarily cumbersome and intrusive.

### **Plans for Restrooms and Locker Rooms**

One aspect of transgender employee policy that has garnered significant attention – and sometimes controversy – is the issue of who uses which restrooms and locker-rooms. A key example comes from North Carolina’s “House Bill 2” that banned individuals from using public restrooms that do not correspond to their biological sex assigned at birth. The United States Department of Justice declared this law in violation of Title VII and Title IX of the Civil Rights Act as well as the Violence Against Women Reauthorization Act of 2013.

Openly transgender employees have, at times, been discouraged or outright or prohibited from using the restroom or locker room that correspond to their gender identities. Many federal employees use a locker room to change into their uniforms or when they enter the agency gym. Additionally, some jobs, like those in the Forest Service, necessitate the use of showers in the locker room. Existing open-shower floor plans in many facilities may not afford transgender individuals a sense of privacy and safety that everyone should have in their workplace. Inside particular workplaces, conflicts and awkward situations can often be headed off by spelling out clear guidelines for appropriate restroom and locker-room use by all employees, including transgender individuals.

### **Flexible Dress Codes**

A comprehensive transgender policy could also resolve problems related to dress codes. Overall, transgender individuals should be allowed to wear clothing consistent with their gender identity; failure to do so could cause harm to their mental health. Obviously, this applies to employees who have gone through transitions. In addition, although dress code policies often assume that all individuals fall into a female-male binary; many individuals identify in non-binary ways. Someone who identifies as gender neutral, for example, may not fit into sex-specific dress codes.

Because it is discriminatory for employers to force transgender people to conform to gender norms, an agency-specific transgender policy should articulate dress and grooming standards that allow employees to dress and groom in ways that are consistent with varied gender identities. The policy should state that no employee will be required to dress and groom in conformance with a particular sex or gender stereotype.

### **Respectful Use of Proper Names and Pronouns**

Another concern to be addressed is the proper use of the name and pronoun corresponding to a transgender individual’s gender identity. After a person transitions, managers and coworkers often use the wrong name and pronoun. The Equal Employment Opportunity Commission found in 2013 that the intentional and repeated misuse of a transgender employee’s new name and pronoun could harm the employee and thus substantiate a claim of sex-based discrimination and harassment. A further issue is that agencies often have no policy about pronoun use for individuals who request designations other than the traditional “he,” “she,” “him,” or “her.”

When coworkers refuse to use the correct pronoun for a transgender colleague it is disrespectful. The Office of Personnel Management should expand the definition of “transgender” to include gender non-binary employees and clearly communicate this definition to agencies. Transgender policies for each agency should include clear guidelines indicating that all employees – including transgender, non-binary, and other gender non-conforming employees – are entitled, both verbally and in writing, to be called by their preferred name and pronouns.

March 21, 2018

<https://scholars.org>

Read more in Nicole M. Elias, "**Constructing and Implementing Transgender Policy for Public Administration**" *Administration and Society* 49 no. 1, (2017): 20-47.