

ALLY GUIDE



CENTRAL FLORIDA GAY & LESBIAN LAW ASSOCIATION, INC.
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Introduction:

Welcome to the CFGALLA Ally Guide. It's great that you are here and interested in improving your personal and organizational efforts as an ally. This guide is meant to cover a wide range of topics—from defining common terminology to evaluating the inclusivity of healthcare plans. There are also references and additional readings listed for each section; we encourage you to pull from these resources and others as you become a stronger ally.

Remember that allyship is a continual process that takes hard work and constant learning. You may encounter slips and roadblocks on your path to implementing more inclusive procedures. These are a normal part of the allyship process, and we hope that you will not be discouraged. Every organization is different, and you may need to adapt some of the suggested policies to better fit your business. Use this guide as a resource and a toolkit, as well as the resources cited in the Further Reading sections, to help strengthen your organization.

About the Authors:



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Table of Contents:

Introduction:	2
About the Authors:.....	3
Table of Contents:.....	4
The Legal and Social Landscape for LGBTQ+ People	5
Further reading	7
Communication:	8
Talking about sexual orientation	8
Talking about gender identity	9
Pronoun usage	10
Preferred language	11
Appropriate workplace discussion.....	13
Takeaways	15
Further reading	16
Creating a Welcoming Workplace:	17
Non-discrimination policies.....	17
Gender transition guidelines	18
Administration and record keeping.....	19
Dress code.....	19
Paid leave.....	19
Takeaways	21
Further reading	22
Transgender Healthcare:	23
Misconceptions about transgender healthcare	23
Evaluating your own healthcare plan	26
Communicating the availability of benefits	29
Further reading	30
Conclusion:	31

The Legal and Social Landscape for LGBTQ+ People

Although same sex marriage was legalized in 2015, LGBTQ+ communities still face many legal challenges. In striving to be a better ally, consider how allyship fits into the larger legal and social landscape.

Discrimination remains a major problem. Many states lack anti-discrimination laws that include sexual orientation or gender identity as protected classes.¹ Members of the LGBTQ+ community also face discrimination while advocating for themselves within the legal system. Among a surveyed group in court proceedings, 53% of transgender and gender nonconforming people of color and 66% of transgender women reported hearing negative language about sexual orientation or gender identity while in court.²

Individuals who are HIV-positive face their own host of legal issues. Florida has implemented confidential name-based reporting for those who test positive for HIV, but conflicts between privacy concerns and public health concerns still arise.³ Florida and many other states also have criminalized certain behaviors for individuals who have tested positive for HIV.⁴ While HIV does affect heterosexuals as well as LGBTQ+ individuals, gay and bisexual men are the largest affected demographic in the United States and HIV has a strong historical connection to LGBTQ+ communities.⁵ Those working with a large number of LGBTQ+ clients should be aware of some of the legal issues that come with HIV status. See the Further Reading of this section for some places to start.

Violence against the LGBTQ+ community remains a major problem as well. Hate crimes against LGBTQ+ individuals have risen over the past five years. Despite representing 4.5% of the US population, members of the LGBTQ+ community are the victims of nearly 20% of all hate crimes.⁶ In 2019 alone, at least 26 transgender or gender non-conforming individuals died from fatal violence. It is clear that fatal violence disproportionately affects transgender women of color, and that the intersections of racism, sexism, homophobia, biphobia, and transphobia conspire to deprive them of employment, housing, healthcare and other necessities, increasing the vulnerability of the population.⁷

Sexual violence is also disproportionately perpetrated against the LGBTQ+ community. 44% of lesbians and 61% of bisexual women experience rape, physical violence, or stalking by an intimate partner, compared to 35% of heterosexual women. 40% of gay men and 47% of bisexual men have experienced sexual violence other than rape, compared to 21% of heterosexual men.⁸ For LGBTQ+ survivors of sexual assault, their identities—and the discrimination they face surrounding those identities—often make them

¹ https://www.lgbtmap.org/equality-maps/non_discrimination_laws

² https://www.lambdalegal.org/sites/default/files/publications/downloads/ll_moving-beyond-bias_guide_fin_al_singles.pdf

³ <https://journalofethics.ama-assn.org/article/hiv-and-health-law-striking-balance-between-legal-mandates-and-medical-ethics/2005-10>

⁴ <https://www.cdc.gov/hiv/policies/law/states/exposure.html>

⁵ <https://www.cdc.gov/hiv/group/msm/index.html>

⁶ <https://www.nbcnews.com/feature/nbc-out/nearly-1-5-hate-crimes-motivated-anti-lgbtq-bias-fbi-n1080891>

⁷ <https://www.hrc.org/resources/violence-against-the-transgender-community-in-2019>

⁸ <https://www.hrc.org/resources/sexual-assault-and-the-lgbt-community>

hesitant to seek help from police, hospitals, and shelters or rape crisis shelters, cutting off the resources designed to help during traumatic situations.

Violence and discrimination can combine to exacerbate other legal issues faced by the LGBTQ+ community. According to the *New York Times*, undocumented LGBTQ+ immigrants face an increased risk of violence and harassment in immigration detention centers and have at times not been provided with appropriate medical care, such as hormone treatments or HIV medications, especially when they are transgender.⁹

This is merely an introduction to the many legal and societal challenges faced by the LGBTQ+ community and the shortcomings of the American legal system in addressing such challenges. Understanding this context not only draws attention to the importance of allyship, but also underscores the troubling realities facing LGBTQ+ people in everyday society. For professional allies working with LGBTQ+ populations, it is all the more important to bring this understanding to your work.

⁹ <https://www.nytimes.com/2016/07/01/us/the-challenges-that-remain-for-lgbt-people-after-marriage-ruling.html>

Further reading

National Center for Lesbian Rights Tips Sheet for Legal Advocates working with LGBTQ+ Clients:
http://www.nclrights.org/wp-content/uploads/2013/07/Proyecto_Poderoso_Flyer_cd.pdf

Discussion of the current impact of HIV on LGBTQ+ communities as well as the associated stigma:
<https://www.cdc.gov/hiv/group/msm/index.html>

The Center for HIV Law and Policy website has many resources for understanding the legal issues associated with HIV status: <https://www.hivlawandpolicy.org/>

Communication:

In recent years, conversations around sexual orientation and gender identity have rapidly evolved. New terms have popped up and old language has fallen out of favor. For those inside the community, this is an exciting time as people are more able to more fully explore aspects of their identity for which there previously existed no common language to express. For many outside the community, the changing use of terminology and language can be confusing and, at times, intimidating. This portion of the guide is meant to help clarify some of the current terms and assist in effective communication with LGBTQ+ clients and coworkers.

Talking about sexual orientation

L, G, B, T, Q, I, A (and more). The LGBTQ+ community added to the acronym until it reached a point where people write a “+” to just signal that there are more and more identities falling within the LGBT umbrella. To make matters more complicated, many of the letters stand for more than one thing. Sometimes LGBTQ+ is also depicted with an A. The A can stand for Asexual, Androgynous, or even Ally. The Q can stand for Queer or for Questioning.¹⁰ The good news is, you do not have to know all these words or the nuances between different identities to be an effective ally in the workplace.

We bring up the multitude of letters to demonstrate a different point. Sexual orientation is not the gay/straight binary that many assume. Sexual orientation is a spectrum with many points along it where people find where they most closely identify. If your coworker has a partner of the same gender, that does not necessarily mean they identify with the word “gay.” If that same coworker later has a partner of a different gender, it is very unlikely that they suddenly “turned straight.” Rather than drawing assumptions from effeminate mannerisms or social media posts, the rest of this section will introduce how to discuss sexual orientation and gender identity in an inclusive and workplace-appropriate manner.

First, let’s discuss the term **partner**. “Partner” is a gender-neutral term for someone’s significant other, spouse, boy/girlfriend, fiancé(e), etc. It’s best to use the term when asking people about their significant others, even if you have no reason to think the person is LGBTQ+. There are three reasons for that.

1. LGBTQ+ people look just like everyone else. Making assumptions about someone’s sexual orientation can be hurtful, or at the very least turn the conversation unnecessarily awkward.
2. By practicing gender-inclusive language with coworkers, you help get yourself into the habit for when you are interacting with clients or others whose sexual orientation you may not know. Again, saving you from awkwardness.
3. When LGBTQ+ people hear other people using gender-inclusive language, it signals to them that they are in a safe environment.¹¹

¹⁰ <https://www.nytimes.com/2018/06/21/style/lgbtq-gender-language.html>

¹¹ <https://www.hrc.org/resources/a-workplace-divided-understanding-the-climate-for-lgbtq-workers-nationwide>

Talking about gender identity

Like with sexual orientation, it's important to understand commonly-used language for discussing gender identity. First, there's **assigned sex**—nearly everyone is assigned a sex at birth, and it tends to be one of two: male or female. **Gender** most often refers to a set of social, psychological, and emotional traits, often influenced by societal expectations that commonly classify an individual as “feminine” or “masculine.” **Gender identity** is the term used to describe a person's deeply-held personal, internal sense of being male, female, some of both, or neither. A person's gender identity does **not** always correspond to their assigned sex. Although, for instance, an individual may be assigned at birth the term “male” based on biological characteristics, that person might not necessarily feel as though they are male. Many experts in the field believe that awareness of gender identity is experienced in infancy, solidifies around age three, and then gets reinforced in adolescence through how society teaches youth about how boys and girls are expected to behave.¹²

Transgender is a term describing an individual whose gender identity does not necessarily match the sex assigned to them at birth. There are transgender women (individuals who were assigned male at birth but whose gender identity is female) and transgender men (individuals who were assigned female at birth, but whose gender identity is male). There are also many people who were assigned one or the other, but identify as neither, meaning they are **nonbinary-identified**. Not all nonbinary people identify as transgender and not all transgender people identify as nonbinary.¹³ Additionally, **cisgender** people identify with the gender they were assigned at birth. So, a cisgender woman is an individual who was assigned female at birth, and also identifies as female.

While the preceding terms tend to reference internal identity, **gender expression** is more external. Gender expression includes the ways in which a person communicates their gender identity to others through means such as clothing, mannerisms, speech patterns, and social interactions that are traditionally linked to how we read masculinity and femininity. For many transgender individuals, medical treatments and surgery may be part of crafting a gender expression that more closely conforms to their identities. However, some individuals may not want to undertake medical procedures (or may be unable to do so due to finances or other medical conditions). A person's biological or surgical status should not impact how you interact with them. A transgender person who has not gone through surgery is not any less of the gender with which they identify.

Many individuals may also embrace a gender expression outside of these two opposite points, meaning they are **gender non-conforming**. This can include a more androgynous, or gender-neutral, expression. Additionally, some individuals may embrace a fluid expression, at times presenting as female, at other times presenting as male.¹⁴

¹² <https://bolt.straightforequality.org/files/Straight%20for%20Equality%20Publications/2020-trans-ally-guide-final.pdf>

¹³ <http://www.transstudent.org/>

¹⁴ <https://bolt.straightforequality.org/files/Straight%20for%20Equality%20Publications/2020-trans-ally-guide-final.pdf>

Pronoun usage

Nothing may be more personal than the way in which people refer to one another through their names and pronouns. Using a person's chosen name and pronouns is a form of mutual respect and basic courtesy. Female-identifying individuals commonly use **she/her/hers** pronouns, male-identifying individuals often use **he/him/his** pronouns, and one common gender non-conforming set of pronouns is **they/them/theirs**. That said, there are many other pronouns an individual may use (**ze/zir/zirs**, **ey/em/eirs**, etc.). Pronouns can also be used in combination, such as **she/her/they** pronouns. It is important to listen carefully and respect the pronouns an individual chooses.

You can add your pronouns to your everyday introductions. Think of meeting someone for the first time—when you introduce yourself, you tell the other person what you want to be called, whether it's a nickname or your full name, your first name or last. If you identify as a woman and want the traditionally female pronouns used when talking about you, say “Hi, my name is X and I use she/her/hers pronouns.” When you introduce yourself using your pronouns, you demonstrate your allyship and acknowledge that you cannot assume someone's pronouns based on name or appearance.

For cisgender people, introducing yourself with your proper pronouns is a very low-risk, easy act that only takes a couple seconds. For many transgender individuals, starting the conversation about pronouns can be stressful and, in unaccepting environments, dangerous. They might not know if they are in a space where the conversation will be accepted, and coming out is emotionally taxing, even when well received. When cisgender people start the conversation, they remove a significant barrier for any transgender individuals in the room and demonstrate that this is an environment that values peoples' identities.

You can also put your pronouns in other places—your email signature, your nametag at events, your personal social media accounts, your nameplate at your desk, or any other place in the office. Every public place where you post your pronouns makes it a little easier for transgender individuals to come out with their own.

What if you make a mistake and refer to an individual by the wrong pronouns? Remember that society has coded gender norms and expectations into all of us, and mistakes are part of the process of becoming a better ally. Rather than avoid the topic for fear of making a mistake, it's better to arm yourself with the tools you need to handle a mistake respectfully. If you misgender someone, apologize, correct yourself, and move forward. A common mistake when apologizing for misgendering an individual is using the apology to proclaim all of the ways you support transgender individuals or centering the apology on your own guilt. This takes the attention away from the harm experienced by the individual and can make them feel compelled to comfort you for the harm of your own mistake. This is unfair and causes further damage. Instead, you want to keep it brief but sincere. Something as simple as “I'm sorry I misgendered you” is appropriate. If the individual wants to further engage with you on the issue, they can¹⁵, but the interaction can also move forward. And most importantly, you can show how important the issue is to you by getting it right next time—the correction is more crucial than the apology.

¹⁵ Look! Gender neutral “they” in action

Preferred language¹⁶

As mentioned in the introduction, the language around sexual orientation and gender identity has changed a lot in recent years. Here’s a chart of some terms that you should use and others you should avoid.

Problematic/Outdated	Preferred	Explanation
“Homosexual relations,” “homosexual couple,” “homosexual sex” etc.	“Relationship,” “couple” (or, if necessary, “gay/lesbian/same-sex couple”), “sex,” etc.	As a rule, try to avoid labeling an activity, emotion, or relationship gay, lesbian, bisexual, or queer unless you would call the same activity “straight” if engaged in by someone of another orientation
“Sexual preference”	“Sexual orientation” or “orientation”	The term “sexual preference” suggests that being attracted to someone of the same sex is a choice
“Gay lifestyle,” “homosexual lifestyle,” or “transgender lifestyle”	“LGBTQ+ people and their lives”	There is no single LGBTQ+ lifestyle. Characterizing it as such can imply that being LGBTQ+ is a choice
“Admitted homosexual,” or “avowed homosexual”	“Out gay man,” “out lesbian,” or “out queer person”	“Admitted/Avowed” language is dated and implies a shameful or inherently secretive nature to being attracted to someone of the same sex
“Gay agenda,” or “homosexual agenda”	Accurate descriptions of the issues (e.g. “inclusion in existing nondiscrimination laws”)	LGBTQ+ people are motivated by the same hopes, concerns, and desires as other Americans
“Special rights”	“Equal rights” or “equal protection”	Anti-LGBTQ+ groups frequently characterize equal protection as “special rights” to incite opposition
“Transgenders,” “a transgender”	“Transgender people,” “a transgender person”	Transgender should be used as an adjective, not a noun
“Transgendered”	“Transgender”	This brings transgender in line with “lesbian,” “gay,” “bisexual,” and “queer” - you would not say a gay man is “gayed”

¹⁶ <https://www.glaad.org/sites/default/files/GLAAD-Media-Reference-Guide-Tenth-Edition.pdf>

“Transgenderism”	“Being transgender”	Refer to being transgender or the transgender community. -Ism implies a condition
“Sex change,” “pre-operative,” “post-operative”	“Transition”	Transitioning is the process of shifting a gender role from the one assigned at birth. It can include social changes (name, pronouns, clothing) as well as medical changes. The other terms inaccurately suggest that a person must have surgery in order to transition
“Biologically male,” “biologically female,” “genetically male,” “genetically female,” “born a man,” “born a female”	“Assigned male at birth,” “assigned female at birth” or “designated male at birth,” “designated female at birth”	These problematic phrases oversimplify a complex subject. And, as previously discussed, an assigned sex does not trump a person’s gender identity
“Preferred pronouns”	“Pronouns”	“Preferred pronouns” implies that gender identity is a choice each individual is making. There is not an appropriate alternative or hierarchy to someone’s pronouns
“Passing,” and “stealth”	“Visibly transgender,” “not visibly transgender” *	Words like “passing” may be used by some transgender individuals among themselves but should not be used by others. “Passing” implies “passing as something you’re not” which is offensive. *Note that while “visibly transgender” is a preferable term to “passing,” commenting on variations of people’s expression of their identity is still often offensive
“Real name,”	“Deadname,” “legal name,” “given name”	Asking someone for their “real name” falsely implies that their current name is not real. Deadname, legal name, or given name, is the more appropriate term, though in most circumstances there would not be any need to ask someone about their prior name.

Appropriate workplace discussion

Sexual orientation and gender identity are personal topics. While open dialogue is far better than assuming or stereotyping, there are some questions and conversations that are inappropriate for the work environment.

In general

You can ask about someone's partner the same way you might ask about someone's wife, husband, girlfriend, etc.

While many people are open about their sexual orientation, many are not. Directly asking someone's sexual orientation is usually inappropriate unless it is relevant to the work (for example, in a client's case) or you have a closer relationship with that person. If they decline to tell you, don't push.

In any advertising, consider LGBTQ+ representation. For more information on how to do so without falling into negative stereotypes, see the GLAAD advertising guide included in the Further Reading for this section.

Do not ask a transgender person about what surgeries they have had done, if they have certain bodily features, or what sexual characteristics they had at any point in their lives. Similarly, do not ask a transgender person for their deadname; the name they have told you is their name.

For clients

It is worth noting that your clients, especially your transgender clients, may face uncomfortable and inappropriate questions in the courtroom or from other attorneys. You can and should warn them of this possibility so that they can prepare themselves.

If your client's sexual orientation is relevant for a legal case or other matter, just ask. Ask directly and use the term "sexual orientation" rather than trying to list possible categories. Again, do not assume a sexual orientation based on the gender of a partner, their behavior, etc.

You may need to inquire about a transgender client's deadname if it is on relevant documents. When you do so, again, be straightforward. Ask what names they have on what relevant documents and where, if anywhere, they have gone through the name change process. Do not call the deadname their "real name." In conversations with or about the client, use the name the client gave you at introductions.

When learning about a client's background, use gender-neutral language, for example, "parent or parents" instead of "mom and/or dad." "Partner" is again useful here.

For coworkers

Do not ask an LGBTQ+ coworker questions about their relationships that you would not ask a straight coworker. In conversations about social lives, try to normalize use of gender-neutral language.

If a coworker is in the process of transitioning, asking them generally how they feel/are doing is appropriate. Asking them detailed questions about their medical process is not.

If you are interacting with an openly LGBTQ+ individual, do not ask them to educate you on LGBTQ+ issues. Members of underrepresented groups frequently find themselves in a position where they feel like they must speak on behalf of the group as a whole or educate those outside the group. When marginalized individuals are put into this role, they frequently feel stressed (they might not have all the answers!) or tokenized (seen just as a representative of this minority and not as a full human being). If you're curious to learn more about LGBTQ+ issues, it's still important to learn! Be sure to check out the resources listed in Further Reading, and you can find many, many more resources online answering questions you never even thought to ask. So, before you ask your coworker a question, ask yourself if it can be answered by a quick Google search.

It is never appropriate to ask a coworker details about their sex life.

Takeaways

1. Being intimidated by changing terminology is okay—not engaging someone based on a fear of misgendering them or offending them is not and fosters an environment of non-inclusion
2. Treat LGBTQ+ coworkers and clients with respect—do not ask LGBTQ+ coworkers or clients questions you would not ask a straight coworker or client
3. As an ally, remember to research answers to your own questions. Do not rely on LGBTQ+ people to educate you on pertinent issues unless they volunteer to do so
4. Assigned sex, gender identity, and gender expression all mean different things. Transgender individuals' assigned sex and gender identity are often different from one another
5. State your own pronouns when introducing yourself to someone else
6. If you misgender someone, apologize briefly and sincerely and correct yourself moving forward; do **not** center the apology on your own guilt
7. When working with LGBTQ+ clients, keep in mind the specific legal and cultural issues that they may be facing, and be prepared for roadblocks that cisgender and heterosexual clients might not normally encounter

Further reading

The LGBT Bar's Guide to Diversity: <http://lgbtbar.org/wp-content/uploads/2015/01/LGBT-Bar-Corporate-Counsel-Diversity-Toolkit.pdf>

GLAAD Media Reference Guide:

<https://www.glaad.org/sites/default/files/GLAAD-Media-Reference-Guide-Tenth-Edition.pdf>

Straight for Equality Trans Ally Guide:

<https://bolt.straightforequality.org/files/Straight%20for%20Equality%20Publications/2020-trans-ally-guide-final.pdf>

Quick Reference Guide for Communicating with Transgender Individuals:

<https://www.healthline.com/health/how-to-be-human-language-around-transgender>

Creating a Welcoming Workplace:

As previously discussed, you can set a gender-inclusive norm by adding your pronouns to email signatures, name tags, social media accounts, and name plates. Don't stop there though. There are plenty more opportunities to utilize employer policies to foster an inclusive space. Take a common example: bathrooms. Make sure you have gender-neutral bathrooms and a policy in place that individuals are free to use the bathrooms of their own choosing. Go beyond simply having the internal policy; label the bathroom accordingly to clearly state that it is open to all who would choose to use it. You can post language such as "You are welcome to use the restroom that best aligns with your gender identity" outside of the bathroom entrance. Additionally, if you provide menstruation products in one restroom, be sure to include them in all restrooms. Let's take a look at more employer policies you can update to make your workspace more inclusive.

Non-discrimination policies

Your firm likely already has a non-discrimination or equal employment policy. The first step you can take to make your firm a more welcoming space for LGBTQ+ individuals is to explicitly add "sexual orientation" and "gender identity or expression" into your existing policy. Here are some examples of the terms in use:¹⁷

- [BUSINESS] and its affiliated organizations are committed to adherence to the letter and spirit of the laws that define equal employment opportunity and are pledged to affirmative action. Therefore, [BUSINESS] will recruit, hire, promote and transfer qualified persons into all job classifications without regard to race, color, religion, national origin or citizenship status, sex, **gender identity or expression**, pregnancy, **sexual orientation**, age, disability, or military status.
- It is the policy of [BUSINESS] to provide equal employment opportunity to all persons regardless of age, color, national origin, citizenship status, physical or mental disability, race, religion, creed, gender, sex, **sexual orientation, gender identity and/or expression**, marital status, status with regard to public assistance, status as a disabled veteran and/or Veteran of the Vietnam Era, genetic information or any other characteristic protected by federal, state or local law.

These classes of protected persons should be listed on your website, in any employment postings, and as part of career or diversity-related materials. By adding "sexual orientation" and "gender identity or expression" to your publicly-available non-discrimination policy, you ensure equal treatment for LGBTQ+ employees and send a welcoming message to prospective applicants.

If your firm's anti-harassment policy is separate from the non-discrimination policy, also add the language there to make a safer space for LGBTQ+ individuals in the office.

¹⁷ <https://www.hrc.org/hei/employment-non-discrimination-overview>

Gender transition guidelines¹⁸

A business that includes “gender identity” in its non-discrimination policy should be prepared to effectively manage a gender transition in the workplace. A workplace transition can involve changes not only for the transitioning employee, but for their manager, colleagues, and clients. Much like any other organizational change, a gender transition is aided by proper planning, communication, and training.

To ensure the best possible outcome for all involved, an organization should adopt a written set of gender transition guidelines. These policies should clearly delineate responsibilities and expectations of transitioning employees, management, and other staff. Should an employee approach their manager or human resources department with the intention to transition, having guidelines on file can help consistently and appropriately manage the situation so all parties feel adequately prepared. This also can limit the risk of conflict and other grievances stemming from unprepared managers mishandling the transition process. Guidelines should be specific enough to provide a consistent framework that eliminates confusion and mismanagement, while retaining some flexibility to tailor to the specific needs of a transitioning employee.

Transitioning guidelines should cover the following areas:

- Who is charged with helping a transitioning employee manage their workplace transition?
- What can a transitioning employee expect from management?
- Management’s expectations for other staff members
- General procedure for implementing transition-related workplace changes such as personnel and administrative records (discussed below)
- A comprehensive communication plan for coworkers and clients
- Answers to frequently asked questions about dress codes and restroom use

Once guidelines are established, they should be made widely accessible to those within the organization. This would include sharing the information in company intranet spaces, HR policy documents, LGBTQ+ employee affinity groups, employee assistance program resources, etc.

Some organizations use a “senior sponsor” when announcing an employee’s plan to transition. Adding such a sponsor sends a strong message of support for the employee from senior management and sets the tone for the business’ expectations of staff moving forward. The “senior sponsor” can help communicate top-down inclusive messages and expectations that are reiterated by other managers and human resources. Management will need to balance coworkers’ educational needs with the importance of minimizing disruption from day-to-day routine and sending a message that business will continue as usual.

For more information and guidance on transition guidelines and a template for use by businesses, see the HRC Transgender Inclusion in the Workplace Toolkit, which you can find in the Further Reading section of this document.

¹⁸ https://assets2.hrc.org/files/assets/resources/Transgender_Inclusion_in_the_Workplace_A_Toolkit_for_Employers_Version_10_14_2016.pdf?_ga=2.202753300.480020452.1583163255-1613112471.1583163255

Administration and record keeping

Companies, schools, entities, and peers should recognize a transgender employee's preferred name and gender to the greatest extent possible, including internal and external personnel directories, email addresses, and business cards. Further, they should develop systems for addressing situations in which an employee's preferred name and gender expression do not match legal documents. For transitioning employees with name and gender marker changes, employers should update an employee's name and gender in personnel and administrative records accordingly.

Additionally, employers should be sensitive to employees who are not yet able to legally change their gender markers and endeavor to accommodate them. In recruiting efforts, employers should be sensitive to those employees whose name and gender markers may not match their records (college transcripts, military service records, professional certifications, etc.). Human resource and administrative professionals need to be cognizant of confidentiality issues and protect a transgender employee's gender history where records may be revealing but the employee is not "out" in the workplace as transgender.¹⁹

Dress code²⁰

If an employer has a dress code, it should be modified to avoid gender stereotypes and be enforced consistently. Requiring men to wear suits and women to wear skirts or dresses, while legal, is based on gender stereotypes. Alternatively, codes that require attire "professionally appropriate" to the office or unit in which an employee works are gender-neutral. For employers who have a "male" and "female" version of a uniform and are unable to change such a policy, employees should be allowed to wear the uniform that comports with their gender identity.

Generally speaking, employers have a right to establish employee dress and grooming guidelines during work hours if they are reasonable and serve a legitimate business purpose (such as safety, customer image, visibility to public, etc.). In the vast majority of cases, employers do not have the right to monitor or regulate employees' off-the-job conduct; dress codes should not apply to activities outside of work. While some employees may cross-dress outside of work, the employer should neither inquire about such activity nor take adverse action against such an employee should it learn about off-the-job cross-dressing from another source.

Paid leave

It is important that workplaces offer inclusive leave policies that are responsive to the needs of LGBTQ+ people. LGBTQ+ people are particularly vulnerable in the absence of guaranteed paid leave. LGBTQ+ people are more likely to be living in poverty, mistreated in the workplace, and discriminated against during

¹⁹ https://assets2.hrc.org/files/assets/resources/Transgender_Inclusion_in_the_Workplace_A_Toolkit_for_Employers_Version_10_14_2016.pdf?_ga=2.202753300.480020452.1583163255-1613112471.1583163255

²⁰ <https://www.hrc.org/resources/workplace-dress-codes-and-transgender-employees>

the hiring process. Making requests for unpaid time off, without clear and enforceable protocols, is often both impractical and unnavigable.

In a recent survey of LGBTQ+ workers, only 48% said their employers covered new parents of all genders equally. Similarly, only 49% said their employer's policies are equally inclusive of the many ways families can welcome a child, including adoption, foster care, or other placement. Examine your leave policy for inclusive or exclusive language.²¹ Terms like "birth mother" exclude fathers, non-birth mothers, and adoptive or foster parents, who are all equally deserving of time to bond with a new child. "Birth mother" policies also can leave out parents of other genders who may give birth, including transgender men, non-binary individuals, and people of other identities. Adding to the difficulty of taking unpaid time off and conquering a major illness or recovery, many LGBTQ+ people face discrimination or stigma when claiming medical leave. Those seeking medical treatment for HIV or transgender-related care may worry that requesting time off will out their status or identity to colleagues. In states that lack employment discrimination protections for sexual orientation and gender identity, LGBTQ+ people may risk mistreatment or even being fired for requesting leave.

²¹ https://assets2.hrc.org/files/assets/resources/2018-HRC-LGBTQ-Paid-Leave-Survey.pdf?_ga=2.55556008.287697117.1583334182-1613112471.1583163255

Takeaways

1. Employer policies are an opportunity to codify and affirm inclusive practices
2. You can foster a more gender-inclusive workspace by adding pronouns to places such as email signatures and name tags, as well as by instituting and displaying gender-inclusive bathroom policies
3. Sexual orientation and gender identity and expression should be added to non-discrimination policies
4. Written gender transition guidelines help businesses more effectively manage transitions for all involved
5. A company should be updating administrative records and personnel files to correspond to preferred names and gender identities
6. If a dress code is needed at all, be sure it is gender-neutral
7. Paid leave policies should be explicitly inclusive of LGBTQ+ needs

Further reading

Information on Employment Discrimination in the City of Orlando:

<http://www.cityoforlando.net/oca/frequently-asked-questions/>

Workplace Rights for Transgender People from Lambda Legal:

https://www.lambdalegal.org/sites/default/files/transgender_booklet_-_workplace.pdf

Society for Human Resources Management on Creating LGBTQ-Inclusive Workplace Policies:

<https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/creating-lgbtq-inclusive-workplace-policies.aspx>

HRC Paid Leave Survey: https://assets2.hrc.org/files/assets/resources/2018-HRC-LGBTQ-Paid-Leave-Survey.pdf?_ga=2.55556008.287697117.1583334182-1613112471.1583163255

HRC Transgender Inclusion in the Workplace Toolkit:

https://assets2.hrc.org/files/assets/resources/Transgender_Inclusion_in_the_Workplace_A_Toolkit_for_Employers_Version_10_14_2016.pdf?_ga=2.202753300.480020452.1583163255-1613112471.1583163255

Transgender Healthcare:

Transgender individuals face many more roadblocks in attempting to receive medical care than cisgender individuals. Many have difficulties finding providers who will provide adequate treatment without discrimination. Even more end up paying out of pocket for medicine, therapy, and other procedures that they need to live happy, fulfilling lives. Professional medical opinions, including the American Medical Association, say that this care is critical for the well-being of transgender individuals, but most insurance policies still lack affirming language.²²

Transition-related care includes hormone treatment, counseling, and surgical procedures, including sex reassignment surgery, facial feminization/masculinization, breast removal, and others. Many insurance companies do not cover transition-related care by default because they claim the procedures are expensive and not medically necessary for the health of the individual.

If an employer provides healthcare coverage for workers, it is best to include a policy which covers transition-related care. Companies around the world have already started implementing these policies, such as Disney and Starbucks.

However, transgender individuals often also face roadblocks when attempting to seek non-transition-related medical care. For example, transgender men frequently require standard gynecological care, which many insurers are hesitant to provide. By amending your health care plan to affirm transgender care, you can enable your employees to receive the medical care they need-both transition-related and unrelated care.²³

Misconceptions about transgender healthcare

Misconception 1: It is rare and/or difficult for insurance to cover transgender-related health services, including transition-related care.

In the last 20 years, insurance coverage has rapidly expanded to include more services for transgender individuals. Federal law, including the Affordable Care Act, has explicitly banned certain types of discrimination and barriers to access of transgender-related health services. Here are some types of discrimination that are illegal:²⁴

- **Health plans can't have automatic or categorical exclusions of transition-related care.** For example, a health plan that specifically excludes all care related to gender transition violates §1557 of the Affordable Care Act.²⁵

²² <https://www.hrc.org/resources/a-workplace-divided-understanding-the-climate-for-lgbtq-workers-nationwide>

²³ <https://www.healthcare.gov/transgender-health-care/>

²⁴ <https://transequality.org/know-your-rights/health-care>

²⁵ Information on the statute: <https://www.hhs.gov/sites/default/files/section-1557-final-rule-faqs.pdf>

Court interpretations: <https://www.littler.com/publication-press/publication/hhs-final-rule-finds-categorical-exclusions-health-services-related>

- **Health plans can't have a categorical exclusion of a specific transition-related procedure.** Excluding procedures from coverage that are medically necessary for some transgender individuals is discrimination. For example, a health plan should not categorically exclude all coverage for facial feminization surgery or impose arbitrary age limits that contradict medical standards of care.
- **Health plans can't place limits on coverage for transition-related care if those limits are discriminatory.** An insurance company can't automatically exclude a specific type of procedure if it covers that procedure for non-transgender people. For example, if a plan covers breast reconstruction for cancer treatment, or hormones to treat post-menopause symptoms, it cannot legally exclude these procedures to treat gender dysphoria.
- **Insurers can't enroll you in a different plan, cancel your coverage, or charge higher rates because of your transgender status:** An insurance company can't treat you differently, refuse to enroll you, or limit coverage for any services because you are transgender.
- **Insurers can't deny coverage for care typically associated with one gender:** It's illegal for an insurance company to deny you coverage for treatments typically associated with one gender based on the gender listed in the insurance company's records or the sex you were assigned at birth. For example, if a transgender woman's health care provider decides she needs a prostate exam, an insurance company can't deny it because she is listed as female in her records. Similarly, if her provider recommends gynecological care, coverage can't be denied simply because she was identified as male at birth.

The effect of these protections is that almost all insurance companies offer plans that cover transgender healthcare, but that coverage is often not effectively or comprehensively included in plans selected by many employers. So, while you can negotiate for coverage for your employees, it likely is not in your current plan.

How are transgender-related benefits still excluded from most plans? Although these rights are all protected under federal law, they are not consistently enforced and, through careful wording of exclusion clauses, insurance companies get around them. For example, while a plan may not have categorical restrictions of a type of procedure, it might only permit the procedure in a small number of cases or impose many medically-unnecessary steps before the insured can get the care they require. Also, many companies have still not removed the wording of some illegal clauses. Even though these restrictions are void, individuals have trouble navigating around them and many are discouraged when they read them in their plans. Additionally, the executive branch in 2019 indicated that they might be removing some of these protections in the near future, so it is critical to get an inclusive plan now before your employees lose what benefits they have.²⁶

Misconception 2: Many elements of transgender healthcare are largely cosmetic and not medically necessary, so I should not cover them if I do not cover cosmetic procedures.²⁷

It is first important to note exactly what is being treated with transition-related care. Let's distinguish two common terms: gender nonconformity and gender dysphoria. **Gender nonconformity** refers to the extent to which a person's gender identity, role, or expression differs from the cultural norms prescribed for people

²⁶ <https://www.hrw.org/news/2019/08/13/trump-administration-moves-roll-back-health-care-rights>

²⁷ <https://www.wpath.org/publications/soc>

of a particular sex. **Gender dysphoria** refers to discomfort or distress that is caused by a discrepancy between a person's gender identity and that person's assigned sex at birth (and the associated gender role and/or primary and secondary sex characteristics). The medical treatment we refer to in this section of the guide is for alleviating the tangible medical condition of gender dysphoria, not to treat gender nonconformity. While not every person who identifies as transgender experiences gender dysphoria, many do. Some people experience gender dysphoria at such a level that the associated distress meets the criteria for a formal diagnosis that might be classified as a mental disorder. This distress can be alleviated in large part by medical treatment, whether that be through hormone replacement therapy, surgical procedures, or a combination of both. Transgender medical care is medically necessary for the health and well-being of employees experiencing gender dysphoria.

Misconception 3: Adding transgender healthcare to my current plan would significantly increase the costs of health insurance for my firm and my other employees.²⁸

While costs for transgender-related healthcare might be prohibitively high for an individual without insurance, insuring transgender-related care is shockingly affordable. Because only a small percentage of those with health insurance seek this type of care, the distributed costs among insurers are extremely low. When compared to the costs of other more common healthcare expenditures, the costs of coverage specific to transgender people's needs are comparable, or lower. For example, according to the American Association of Health Plans, the most common disease management programs in health plans are those for diabetes, asthma, and congestive heart failure. The American Diabetes Association reports that the per capita annual cost of healthcare for people with diabetes was \$13,243 in 2002.

The precise costs depend on a number of variables:

- The number of employees and dependents who make claims for coverage.
 - It is hard to say how many trans people will access services. However, individual employers indicate that the number of employees taking advantage of related health insurance benefits is actually quite small. The HRC Foundation has spoken with many of the businesses that have offered inclusive benefits in the hopes of gaining more information about the number of people utilizing benefits. That number turned out to be so small that employers were unable or unwilling to look further into the data out of concern for the privacy of the individuals. These businesses also found no noticeable spike in costs that could be attributed to covering transgender healthcare.
- The services and procedures requested over time.
 - The World Professional Association for Transgender Health's Standards of Care (WPATH SOC) are useful for anticipating what treatments might be requested in total. Appropriate clinical treatment varies between individuals: many people will not access all services, but some people may access significantly more than others -- it is difficult to predict what services people will need and, further, in what sequence or span of time they will access them.
- Variations among the services and procedures requested and available providers.

²⁸ <https://www.hrc.org/resources/are-transgender-inclusive-health-insurance-benefits-expensive>

- There are limited qualified providers of certain surgical treatments in the United States, each of which may specialize in different types of procedures. Furthermore, services are not one size fits all: a surgical reconstruction method that is clinically indicated for one individual may well be inappropriate for another person. These variations between specialists' techniques and the clinical needs of individual patients can contribute to what appear as geographic disparities in estimations of the costs of these services.

Best Available Data²⁹

The best available public data on insurance coverage experience is from the City and County of San Francisco, which has reported limited data. The cost of services per employee per year was minimal, with costs per insured per year averaging between \$0.77 and \$0.96: less than a dollar per year per enrollee. The precise number of claimants is uncertain since for most years the data is reported by claim and not by claimant. Thus, the average dollars per claimant per year ranged between \$3,194 and \$12,771. Compare this again to the \$13,243 per capita annual cost for insuring one individual with diabetes.

Misconception 4: I don't currently have any transgender employees, so I do not need to worry about if my firm's insurance plan affirms transgender care.

First, just because none of your employees have expressed a wish for this kind of medical coverage does not mean that there is not a current need. Going through transition is a personal decision and many employees do not want to discuss their (or their dependents') potential sex reassignment surgery with their supervisor or coworkers. Assuming that none of your current employees require this type of medical care overlooks the reality that many employees choose not to come out in the workplace or may have a dependent who needs the care.

Second, the staff of a company is always changing. Not covering transgender care is not only exclusionary but will limit the applicant pool for new positions and stand in the way of hiring a diverse staff. Basing coverage decisions on a managerial understanding of deeply personal healthcare needs risks leaving out unvoiced current needs, as well as limiting the appeal of the company to those who do not currently fit the organizational norm.

Evaluating your own healthcare plan

A quick note on transgender healthcare in Florida: unfortunately, Florida has neither a state ban on insurance exclusions for transgender healthcare nor does it provide transgender-inclusive health benefits to state employees.³⁰ However, there are several court cases pending addressing this topic, so this might change in the near future.

²⁹ <https://www.hrc.org/resources/san-francisco-transgender-benefit>

³⁰ <https://www.hrc.org/state-maps/transgender-healthcare>

Step 1: Look for exclusions in your current healthcare plan³¹

Most U.S. health insurance policies have exclusions listed on transition-related care. So-called “transgender exclusions” can be broad enough as to exclude health care coverage completely unrelated to the process of a gender transition, such as migraine treatment or gynecological care for transgender men.

Your first step should be to examine the wording of your plan’s transgender exclusions clause to understand if the clause:

1. presents barriers to treatment for non-transition related treatments
2. negates coverage outright for transition-related care
3. offers partial coverage for transition-related care (for example, hormone therapy but no surgeries)

Actual exclusion clause wordings and how they have been read in practice:

- “Services for, or leading to, sex transformation surgery.”
 - This clause has been read narrowly to only exclude surgeries, but it has also been read broadly to exclude all gender dysmorphia treatment
- “Gender Transformation: treatment or surgery to change gender including any direct or indirect complications or aftereffects thereof”
 - Due to the broadness of this clause, it has been used to deny any number of medical treatments to transgender individuals, including treatments unrelated to transition
- “Transsexual surgery including medical or psychological counseling and hormonal therapy in preparation for, or subsequent to, any such surgery”
 - This clause has also been read to hold a variety of meanings. The specific ban on psychological counseling makes this clause especially concerning.

Q: What if I can’t find any exclusions or I see some inclusions - is my plan already good?

A: Possibly. Talk to your insurance provider and try to get a positive answer to the following question:

"Does our health plan cover the healthcare needs of transgender and transsexual individuals without exclusion as for any other individual, including routine, emergent or urgent care as well as services related to sex affirmation or reassignment? More specifically, do we have explicit exclusions in our insurance plan contract that specifically preclude such treatment and, if we do have such exclusions, are they still applicable?"³²

If your plan is silent on coverage but your provider says that means it is inclusive, skip ahead to step 3 and add affirming language to your plan to remove possible roadblocks as your transgender employees work to navigate the world of health care and insurance.

³¹<https://www.healthcare.gov/transgender-health-care/> and https://assets2.hrc.org/files/assets/resources/Transgender_Healthcare_White_Paper_4.pdf

³² <https://www.hrc.org/resources/transgender-inclusive-benefits-questions-employers-should-ask>

Step 2: Eliminate the exclusions

Talk to your insurance provider about amending your plan to remove the exclusions listed for transgender care. Almost every major insurance provider has a plan without the exclusions, even if that plan is not widely advertised.

That said, removing restrictions is not enough. While, in theory, the services should be available once restrictions are removed, your transgender employees might still face some roadblocks if the plan does not explicitly state that it covers these services. The healthcare market is extremely difficult for transgender individuals and some will attempt to deny coverage when a plan is silent on an issue. Add affirming language to your plan to prevent roadblocks while your employees attempt to get the care they require.

Step 3: Add affirming language

Add positive language to your plan affirming what procedures are covered. This step will remove barriers for your transgender employees when seeking coverage. The following two links should assist you in this process:

Human Rights Campaign has assembled a list of major insurance providers' plans regarding transgender healthcare. Check it out to see if your insurer is on the list and what coverage they offer for those who request it. <https://www.hrc.org/resources/finding-insurance-for-transgender-related-healthcare>

Different insurers use different language to refer to the same medical procedures. Before talking to your insurer, use this reference from Transcend Legal to make sure you and your insurer are on the same page about what medical procedures you want covered in your plan. <https://transcendlegal.org/health-insurance-medical-policies>

Q: I am not an expert on transgender healthcare, how do I make sure I am covering the right things?

A: Fortunately for those of us who are not doctors, the World Professional Association for Transgender Health (WPATH) has published a widely-recognized standard of practice for transgender healthcare. Rather than negotiating for each procedure, express to your insurance carrier that you wish to offer coverage in line with WPATH's Standards of Care (SOC). Here are some questions to help you:³³

- To establish that coverage will include care required by transgender individuals including transition-related services, you can ask: "It is our understanding that our health plan will now cover the health care needs of transgender and transsexual individuals without exclusion as for any other individual, including routine, emergent or urgent care, as well as services related to sex affirmation/reassignment. Is this the case?"
- To establish that coverage will include the full range of services under the WPATH SOC, you can ask: "It is our understanding that our health plan will now cover the full range of medical procedures

³³ https://assets2.hrc.org/files/assets/resources/Transgender_Healthcare_White_Paper_4.pdf

related to the process of sex affirmation/reassignment which are considered medically necessary by WPATH. Is this the case?”

- To establish that implementation will be consistent with WPATH SOC, you can ask: “It is our understanding that with regard to coverage determinations, our health plan will now follow the current WPATH SOC regarding sufficient documentation of clinical decisions and treatment plans. Specifically, diagnosis, assessment, and treatment conforming to the current WPATH SOC, as appropriately documented by the treating provider(s) as per the WPATH SOC, will guide determinations of eligibility for a specific treatment, prior authorization or certification, and other utilization management decisions. Is this the case?”

For specific listings of procedures that should be included in a plan, look at page 13 of HRC’s “Transgender-Inclusive Health Care Coverage and the Corporate Equality Index” or WPATH’s Standards of Care, both linked in the Further Reading to this section.

Communicating the availability of benefits³⁴

Congratulations! You have gotten affirming health coverage for your employees. This is a huge step in creating the inclusive work environment you and your employees deserve. Now that you have negotiated this plan, do not keep it a secret.

When the benefit first becomes available, inform your employees as you would with other relevant benefit changes to your plan prior to the annual open enrollment period. Also, add general language to documentation readily available to all employees, even if the coverage has been in place for multiple years. This is most easily accomplished in the Summary Plan Description.

Then, make the policy publicly available to prospective job applicants by posting on an employment page of your website, job announcement, job application system, or in an employment brochure. Let people know this is a workplace that not only claims to be welcoming, but actively works to improve the lives of their transgender employees and their dependents.

³⁴ <https://www.hrc.org/resources/transgender-inclusive-benefits-communicating-availability-of-the-benefit>

Further reading

American Medical Association's statements and policies on LGBTQ+ issues:

<https://www.ama-assn.org/delivering-care/population-care/policies-lesbian-gay-bisexual-transgender-queer-lgbtq-issues>

Transgender rights to insurance coverage:

<https://transequality.org/know-your-rights/health-care>

Estimating costs of Transgender Health Coverage for Employers:

<https://www.hrc.org/resources/transgender-inclusive-benefits-medical-treatment-cost-and-utilization>

Transcend Legal's Policy Database:

<https://transcendlegal.org/health-insurance-medical-policies>

WPATH's Standards of Care: <https://www.wpath.org/publications/soc>

Information on Clinical Guidelines:

<https://www.hrc.org/resources/transgender-inclusive-benefits-what-are-clinical-guidelines>

HRC's Transgender-Inclusive Health Care Coverage and the Corporate Equality Index:

https://assets2.hrc.org/files/assets/resources/Transgender_Healthcare_White_Paper_4.pdf

Creating Equal Access to Quality Health Care for Transgender Patients:

https://www.lambdalegal.org/publications/fs_transgender-affirming-hospital-policies

Sample summary plan language for businesses:

<https://www.hrc.org/resources/transgender-inclusive-benefits-communicating-availability-of-the-benefit>

Conclusion:

Being an ally is a process that takes continual learning and work. Striving to implement these practices helps create an inclusive workspace that recognizes the dignity and humanity of each person and their experience. Remember, it's okay to hit stumbling blocks during this process - the most important thing is to learn from them and become a better ally each time. We hope that through this guide, the Further Reading sections, and the vast wealth of information available on the internet, you will be equipped with the tools to intentionally and tangibly deepen your efforts as an ally to the LGBTQ+ community.