

## **Supporting Transgender Individuals in the Workplace**

### **Guidance for Human Resources and Management**

#### **Introduction**

The State of Delaware is dedicated to maintaining an inclusive, respectful, safe and productive workplace for all transgender, gender-nonconforming, gender nonbinary, and gender-transitioning employees, applicants, and contractors. Transitioning individuals have the right to express their gender identity, including through appearance, use of a new name and/or gender pronoun, and use of facilities that correspond with their gender identity. Discrimination, harassment, and retaliation based on gender, gender identity, and gender expression are unacceptable. This guidance will help provide transgender individuals with the tools they need to safeguard against negative and discriminatory behavior.

#### **Roles and Responsibilities**

Diverse and inclusive workplaces contribute to the State's success. The State and the Executive Agencies must provide an environment that welcomes transitioning individuals and includes them in business, as any employee would be included. Human resources (HR) and management support for transitioning individuals is essential.

HR representatives at Agencies are the main contact for transitioning individuals and their supervisors. Together they will create and carry out a workplace transition plan. The HR representative must demonstrate a basic understanding of transgender issues and gender transition processes as they relate to the workplace and use a sensitive approach in discussing the individual's needs and concerns. HR may also provide inclusion and cultural competency training, as appropriate, for the agency's employees, with the assistance of [Statewide Training and Strategic Initiatives](#).

Supervisors will lead by example, treating transitioning individuals with support, respect, and dignity. This includes using the transitioning individual's chosen name and gender pronoun(s), being aware of issues that may come up at work and handling those issues thoughtfully and without delay.

#### **Notification of Transition**

Transitioning individuals will let their HR representatives and immediate supervisors (or another supervisor) know when they are ready to talk about transitioning. Those key personnel will then talk to each other to be sure everyone is ready to create and carry out an effective workplace transition plan.

The transition plan is a document put together by the transitioning individual and HR representative. The plan lays out who will be told about the transition; how information will be communicated; a timeline for when the transition will be complete; expectations; and impacts or consequences of violations.

#### **Appearance, Attire, and Facilities Access**

Transitioning individuals must comply with the same standards of dress and appearance, and any existing dresscode, as all other employees in their workplace doing the same job.

All State employees, applicants, and contractors have the right to use facilities (restrooms, locker rooms, etc.) that match their gender identity and/or gender expression. Agencies are encouraged to designate all-gender restrooms for use by all employees. However, transgender and gender-nonconforming employees are

not expected or required to use all-gender restrooms. State employees may not question or harass people about their restroom choice.

Nonbinary individuals may need a reasonable accommodation for gendered locker rooms. Management and HR should be aware of this and work with nonbinary individuals to provide the best accommodation. Supervisors should be aware of those who have personal concerns about sharing facilities with transitioning or nonbinary co-workers, and refer them to HR. HR will discuss their concerns in connection with the [EEO policy](#), the [Gender Identity Policy and Procedure](#), and these guidelines.

### Changes to Identification and Records

In some ways, a transitioning individual is like a new employee. Thinking of the person this way may help the HR representative remember to review some of the actions new employees take during the first week of employment, such as:

- Obtain a Security badge
- Submitting a W-4 form
- Obtain an email account
- Complete the Employee Personal Information Form and make necessary updates in PHRST

The HR representative will work with management and the transitioning individual to determine when personnel records and professional licenses and registrations, if any, need to be revised. The following chart should help with determining the changes that need to be addressed.

Required Action Items	
<input type="checkbox"/>	Provide transitioning individual with copies of the <a href="#">Gender Identity Policy and Procedures</a> , Guidelines for the Transitioning Individual, and Guidelines for HR and Management, and/or provide website linking those documents
<input type="checkbox"/>	Make preferred or legal name changes in PHRST by using the <a href="#">Preferred First Name Operating Procedure</a>
<input type="checkbox"/>	Obtain new security badge when possible (Preferred names can be requested for those agencies where the vendor can issue building security access cards with preferred name. Preferred names may be used unless prohibited due to security policies.)
<input type="checkbox"/>	Update <a href="#">Employee Personal Information form</a>
<input type="checkbox"/>	Update departmental staff directory
<input type="checkbox"/>	Conduct search of all web and intranet sites to ensure they reflect individual's chosen name and gender
<input type="checkbox"/>	Update individual's email account and computer username/individual's phone line (Submit a ServiceNow ticket to DTI to request changes to State email address indicating a preferred name is requested and approved.)
<input type="checkbox"/>	Update Fleet form
<input type="checkbox"/>	Replace name plate (if applicable)
<input type="checkbox"/>	Replace photos on display (if applicable)
<input type="checkbox"/>	Provide new W-4 form/Direct Deposit Form (if applicable)
<input type="checkbox"/>	Order business cards (if applicable)

The HR representative will work with whomever is needed to make sure web and intranet sites reflect the transitioning individual's chosen name and gender. The HR representative will make sure these changes are made at the right time, as laid out in the workplace transition plan.

Employees must use their legal names and genders for certain legal purposes, such as payroll and retirement accounts. If there are questions about who can see this information, the HR representative should remind the transitioning individual that only a few State employees see official employee records.

### **Confidentiality and Privacy**

HR representatives must clearly communicate the State's [Gender Identity Policy and Procedures](#), and any other policies that tell transitioning individuals about their right to privacy. HR should ensure transitioning individuals understand their rights, and that all information related to their transition is confidential.

Transitioning individuals cannot be made to disclose medical information. Medical information, medical history, and other medical records are private. These records can only be disclosed at the transitioning individual's request, and with their consent.

Transitioning individuals are not expected to educate others, although they are welcome to participate in the education of co-workers. If the transitioning individual indicates questions or discussions are welcome, any questions asked, or discussions initiated must be respectful in tone and appropriate in content. If, however, the transitioning individual wishes to keep the details of their transition private, those wishes must be respected.

### **Benefits**

Should transitioning individuals need time off for their transition, their HR representative will explain the State's sick leave policy and availability of any other leave available.

The HR representative will refer the transitioning individual to [Statewide Benefits](#) for questions concerning health and life insurance benefits, and to the [State of Delaware Office of Pensions](#) for questions concerning retirement benefits.

### **Potential Training for Department, Management, and/or Employees**

Department supervisors must support efforts to ensure a successful transition. Management is responsible for creating and maintaining a safe and productive work environment, modeling support, and ensuring privacy and confidentiality. The HR representative must provide department supervisors with verbal and written information about the rights of transitioning individuals, the State's [EEO policy](#), the [Gender Identity Policy and Procedure](#), these guidelines, and other relevant information that prepares them to answer questions and address issues that may come up.

HR may also work with [Statewide Training and Strategic Initiatives](#) to provide inclusion and cultural competency training, as appropriate, for the department's employees.

The HR representative and management should remain available to meet or answer question.

## Protection from Discrimination & Reporting Violations

Co-workers must respect transitioning individuals and not treat them differently because of their gender identity and/or gender transition. If a co-worker is unsure of the appropriate pronoun to use with a transitioning individual, it is acceptable to respectfully ask which pronouns the individual has chosen. It is a violation of the [Gender Identity Policy and Procedure](#) to intentionally refer to someone by the wrong name or pronoun. Intentional or repeated misgendering or misnaming is a violation of State policies. Supervisors must correct anyone they hear using the wrong name or gender pronoun.

The HR representative should advise transitioning individuals of their rights and protections under applicable State policies, including [the EEO Policy](#) and the [Gender Identity Policy and Procedure](#), and advise them of EEO complaint procedures. All employees are encouraged to report harassing, retaliatory, or discriminatory behavior, whether directed at themselves or co-workers. Retaliation against any individual who reports or files a complaint, or helps in the investigation of a complaint, is prohibited.

Supervisors must be proactive in monitoring behavior towards transitioning individuals. If a supervisor receives a complaint, or if a supervisor becomes aware of potential discriminatory, harassing, or retaliatory behavior, the supervisor must immediately report it to the HR personnel. Any supervisor who fails to report such a complaint or behavior may be subject to discipline.