



# Transgender & Gender Identity Employment Policy & Procedures

PM-30-02

Section: 30-00, EQUAL EMPLOYMENT COMPLIANCE

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## Transgender & Gender Identity Employment Policy and Procedures

### A. Purpose and Scope

The City of Memphis (“City”) is committed to treating all employees with respect and dignity. We achieve this by fostering a work environment of inclusion and understanding that is free from discrimination regardless of our employees’ race, national origin, ethnicity, age, socio-economic status, disability, religion, political affiliation, gender, sexual orientation, gender identity, gender expression or other personal characteristics that make our employees unique.

This policy is designed to create a safe and productive workplace environment for all employees. Furthermore, this policy sets forth guidelines to address the needs of transgender and gender non-conforming employees and clarifies how the law should be implemented in situations where questions may arise about how to protect the legal rights or safety of such employees.

This policy does not anticipate every situation that might occur with respect to transgender or gender non-conforming employees, and the needs of each transgender or gender non-conforming employee must be assessed on a case-by-case basis. In all cases, the goal is to ensure the safety, comfort, and healthy development of transgender or gender non-conforming employees while maximizing the employee’s workplace integration and minimizing stigmatization of the employee.



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### **B. RESTROOM ACCESSIBILITY**

Employees shall have access to the restroom corresponding to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single-stall restroom, when available. No employee, however, shall be required to use such a restroom.

All employees have a right to safe and appropriate restroom facilities, including the right to use a restroom that corresponds to the employee's gender identity, regardless of the employee's sex assigned at birth. That is, transgender women must be permitted to use the women's restroom, and transgender men must be permitted to use the men's restroom. The choice of which restroom to use should be left to transgender employees to determine the most appropriate and safest option for them, accept in situations where the administration, in its sole discretion, believes the use of the restroom could present a safety or other risk.

### **C. LOCKER ROOM ACCESSIBILITY**

All employees have the right to use the locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, can be provided with a reasonable alternative changing area such as the use of a private area where possible and available.

### **D. DRESS CODES**

The City does not have dress codes that restrict employees' clothing or appearance based on gender. Transgender and gender non-conforming employees have the right to comply with City dress codes in a manner consistent with their gender identity or gender expression.

### **E. DISCRIMINATION/ HARASSMENT**

It is unlawful and against City policy to discriminate in any way including, but not limited to, failure to hire, failure to promote, or unlawful termination) against an employee because of the employee's actual or perceived gender identity. The City will not tolerate name-calling, deliberate refusal to use an employee's preferred name or gender identity, or any other behavior that stigmatizes an employee's gender identity.



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Additionally, it also is unlawful and contrary to this policy to retaliate against any person objecting to discrimination or harassment on the basis of gender identity, or supporting enforcement of legal protections for transgender employees.

The City is committed to creating a safe work environment for transgender and gender non-conforming employees. Any incident of discrimination, harassment, or violence based on gender identity or expression will be given immediate and effective attention, including, but not limited to, investigating the incident, taking suitable corrective action, and providing employees and staff with appropriate resources.

### **F. PRIVACY**

Transgender employees have the right to discuss their gender identity or expression openly or to keep that information private. The transgender employee gets to decide when, with whom, and how much to share their private information.

Management, human resources staff, or coworkers should not disclose information that may reveal an employee's transgender status or gender non-conforming presentation to others. That kind of personal or confidential information may only be shared with the transgender employee's consent **and only** with coworkers who truly need to know to do their jobs.

### **G. OFFICIAL RECORDS**

The City will change an employee's official record to reflect a change in name or gender for internal purposes upon request with proper legal documentation (i.e. court order certifying the name change and/or updated driver's license). However, the City cannot change an employee's name for purposes of tax withholding or benefits unless the employee has legally changed his or her name.

A transgender employee has the right to be addressed by the name and pronoun corresponding to the employee's gender identity.

If a new or transitioning employee has questions about City records or ID documents, the employee should contact the Office of Equity, Diversity & Inclusion.



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### H. TRANSITIONING ON THE JOB

Employees who transition on the job can expect the support of management and Human Resources (HR) staff. HR will work with each transitioning employee individually to ensure a successful workplace transition.

#### I. BEFORE THE WORKPLACE TRANSITION BEGINS:

1. **First Point of Contact to Advise of Transition:** The transitioning employee should meet with HR to make them aware of the employee's upcoming transition. HR will advise the employee of the City's transgender-related policies and the availability of transition-related health care benefits.
2. **Second Point of Contact To Advise of Transition:** HR will coordinate a meeting between the transitioning employee and the employee's supervisor – and others, if desired by the transitioning employee – to ensure the supervisor knows of the employee's planned transition.
3. **Create the Workplace Transition Plan:** The Workplace Transition Plan will be created through an interactive process between the transitioning employee and HR. The transition plan should include all of the following areas:
  - i. The date when the transition will officially and formally occur. This means the date that the employee will change his or her gender expression, name, and pronouns. The transitioning employee may choose to begin using the restroom and locker room associated with his or her gender identity on this date as well. The transitioning employee will know best when this should occur as they will be able to determine all relevant factors to be considered when choosing this date.
  - ii. Decide how, and in what format, the transitioning employee's co-workers should be made aware of the employee's transition. It is up to the transitioning employee to decide if he or she would like to make some co-workers aware of their transition on a one-on-one basis before it is officially announced.
  - iii. Decide what, if any, training will be given to co-workers.
  - iv. Determine what updates should be made to the transitioning employee's records, and when they will be made.
  - v. Determine dates of any leave that may be needed for pre-scheduled medical procedures.



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2. Ensure that all name changes and photographic identification are updated in advance so that they can go live on the transition day. This includes email addresses. Make sure to keep in mind that name changes within certain processes could take longer than in others. Figure this into your Transition Plan timeline.

### **THE DAY THE TRANSITION WILL BE MADE KNOWN TO THE WORK TEAM**

1. Have a work team transition meeting that includes the transitioning employee, the employee's supervisor, and the employee's co-workers, and HR. If the employee thinks it would be helpful, a handout about transgender issues can be provided at this meeting. It is up to the employee whether he or she feels comfortable attending or would prefer not to be there.
2. The head of the employee's work team should announce the transition, along with any other department/divisional leadership team who are there to show solidarity of the employee. The speaking supervisor must:
  - i. Emphasize the transitioning employee's importance at the City and management's complete support of the employee's transition.
  - ii. Review the City's relevant nondiscrimination and anti-harassment policies.
  - iii. Indicate that the transitioning employee's gender expression must be acknowledged and respected regardless of co-workers' personal opinions or beliefs. The manager should also advise co-workers of the transitioning employee's new name.
  - iv. Be a behavioral model by using the transitioning employee's new name in all communication – written and oral, formal and informal.
  - v. Make a point that the transition will not change the workplace and that everything should go on as it did previously.
  - vi. Solicit any questions. Refer questions the manager cannot answer to HR.
  - vii. If training is going to occur, the date should be announced at this meeting. If possible, the training should occur before the date of the employee's official workplace transition.

### **THE FIRST DAY OF THE EMPLOYEE'S OFFICIAL WORKPLACE TRANSITION:**

The transitioning employee's supervisor should be clear that all elements are in place, in the same way the supervisor would for a new hire or transferred employee. These elements include:

1. Making sure that the transitioning employee has a new ID badge and photo if necessary.



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2. Ensuring all work documents have the appropriate name and gender and checking that these have been changed in all places an employee's name may appear.

#### 4. DEFINITIONS

The definitions provided here are not intended to label employees but rather to assist in understanding this policy and the legal obligations of employers. Employees may or may not use these terms to describe themselves.

- **Gender identity:** The actual or perceived gender-related identity, appearance, or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.
- **Gender expression:** An individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns, and social interactions that may be perceived as masculine or feminine.
- **Transgender:** An umbrella term that can be used to describe people whose gender identity and/or expression is different from their sex assigned at birth.
  - A person whose sex assigned at birth was female but who identifies as male is a transgender man (also known as female-to-male transgender person, or FTM).
  - A person whose sex assigned at birth was male but who identifies as female is a transgender woman (also known as male-to-female transgender person, or MTF).
  - Some people described by this definition don't consider themselves transgender – they may use other words, or may identify simply as a man or woman.
- **Gender non-conforming:** This term describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. Keep in mind that these expectations can vary across cultures and have changed over time.
- **Transition:** The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many different ways to transition. For some people, it is a complex process that takes place over a long period of time, while for others it is a one- or two-step process that happens more quickly. Transition may include "coming out" (telling family, friends, and coworkers); changing the name and/or sex on legal documents; and, for many transgender people, accessing medical treatment such as hormones and surgery.



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- **Sexual orientation:** A person's physical or emotional attraction to people of the same and/or other gender. Straight, heterosexual, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be gay, lesbian, bisexual, or straight, just like non-transgender people.
- **LGBT:** A common abbreviation that refers to the lesbian, gay, bisexual, and transgender community.

## **REFERENCES**

TITLE VII