



 Transgender Law Center

**TIPS FOR LAWYERS WORKING
WITH TRANSGENDER CLIENTS
AND COWORKERS**

WORKING WITH TRANSGENDER CLIENTS

Transgender clients are not fundamentally different from cisgender clients. They have the same need for respect, effective representation, and returned phone calls. Most often, the unique challenges they face originate from discomfort on the part of others. For some transgender people, previous experience with discrimination may lead them to be wary about opening up to a lawyer. This barrier may be something you will need to overcome in order to provide effective representation. Here are some things to keep in mind when representing a transgender client.

**IT ISN'T ALWAYS ABOUT A
PERSON'S TRANSGENDER
STATUS.**

Sometimes the legal challenge facing a transgender person is unrelated to their gender identity. It is important not to focus so narrowly on the fact that a person is transgender that you end up making that characteristic more important than the actual reason the person is seeking your services. It is important that you use your legal expertise to help your client understand the core legal issues and not focus on their gender identity to the exclusion of other relevant facts.

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BE AWARE OF ASSUMPTIONS YOU ARE MAKING ABOUT A PERSON'S GENDER.

It is very common to assume that you know a person's gender identity based on sex stereotypes. However, gender identity is not immediately evident, or is different from what you may assume or expect. Transgender people in particular may not conform to narrow gender stereotypes. If you are unsure what a person's gender identity is, ask them (privately, if possible) what name and pronouns they would like you to use, and how they would like to be addressed. Generally, it is a good practice to ask all new clients what name and pronouns they would like to be addressed by.

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REACH OUT TO ATTORNEYS WHO HAVE EXPERIENCE WORKING ON TRANSGENDER ISSUES.

Because so many legal issues concerning transgender people are issues of first impression or are still being developed, it is important that you connect with knowledgeable attorneys as you begin to frame your legal arguments. In other cases, there may be an established approach to recurring issues, but one that is not well known outside of the community of advocates who specialize in transgender issues. Transgender Law Center may be able to offer assistance if you contact our Helpdesk at:

[www.transgenderlawcenter.org/legalinfo.](http://www.transgenderlawcenter.org/legalinfo)

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USE THE CORRECT NAME AND PRONOUNS IN ALL CORRESPONDENCE, COURT PAPERS, AND SETTLEMENT AGREEMENTS.

Except in extremely rare circumstances, it is very important that you use the name and pronouns that your client has indicated they use. Your client may choose to use a name that is gender-neutral or associated with a gender that is different from the pronouns they have asked you to use. It is important to be aware of and respect this decision. It may be necessary to footnote the person's prior name in a document, or to clarify in an initial letter that the recipient of the letter may know your client by another name or gender but that you will be referring to the client by their current name and pronouns. It is also important that you respectfully urge opposing counsel, court staff, and judicial officers to do the same.

**DO NOT ASK
INAPPROPRIATE AND
IRRELEVANT QUESTIONS
ABOUT A CLIENT'S
MEDICAL TRANSITION.**

Transition is the process that many transgender people undergo to bring their outward gender expression into alignment with their gender identity. There are many different ways to transition. A person's desire to access medical care related to transition can be impeded for a number of valid reasons –cost, pre-existing medical conditions, fertility –or they simply may not want to. Unless it is an essential factor in a case, it is not necessary for an attorney to know the details of their client's transition. Where it is relevant, be sure to ask respectfully and tell the client why you need to know.

MAKE SURE YOUR OFFICE HAS TRANSGENDER-FRIENDLY POLICIES.

Your intake forms should account for a person using a name other than their legal name. Intake forms should encourage or allow people to identify their sex or gender based on their current gender identity and should allow for responses other than simple 'M or F.' Your restrooms should be accessible to people based on their gender identity (as opposed to their sex assigned at birth).

Where possible, it is always a good idea to have an all-gender restroom option available. However, all-gender restrooms should be an option for everyone and transgender employees or clients should not be forced to use all-gender restrooms. Finally, everyone in the office, not just the attorneys or legal staff, should be trained in basic transgender cultural competency including the importance of using correct names and pronouns.

WORKING WITH TRANSGENDER COWORKERS

Transgender people are employed in every industry and profession throughout the country. As a community, however, transgender people face frequent employment discrimination, which leads to high rates of unemployment and underemployment. Ensuring that your workplace is one in which all employees can fully participate is vital to combating discrimination and will also help to ensure that you can provide competent services to transgender clients. Here are some ways to ensure that transgender coworkers feel welcome

POLICIES

CREATE MEANINGFUL AND ENFORCEABLE NONDISCRIMINATION POLICIES.

It is important to have a general statement of non-discrimination that includes gender identity and gender expression as well as sex. It is even more helpful to provide specific guidelines explaining what nondiscrimination means in this context. Such guidelines would include information about the need to use a person's correct name and pronouns, restroom accessibility, and confidentiality. This is particularly important for employers since federal law (Title VII) as well as the laws of at least 22 states prohibit discrimination based on gender identity.



Transgender Law Center has created a model employer policy on these issues, click to download or visit www.transgenderlawcenter.org/resources/employment.

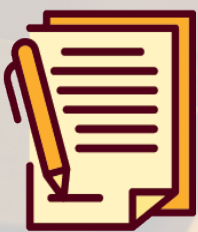
HAVE STAFF TRAININGS.

Whether you know that you have transgender employees on staff or not, it is important to have staff trainings on the issue. Some transgender employees may not be “out” about their transgender status, or may not feel it is necessary to disclose their transgender status to their employer or coworkers. While most staff want to be supportive of transgender coworkers, many will need guidance on how to do so. Trainings are a much more effective way of creating a respectful environment than simply relying on written policies. If you have an existing sexual harassment or other training, consider including examples specifically focusing on gender identity or gender expression discrimination.

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OFFER INCLUSIVE HEALTH INSURANCE.

Many health insurance policies have specifically excluded coverage for transition-related care. These exclusions often prevent transgender employees from obtaining medically necessary care such as hormone replacement therapy. Exclusions may even jeopardize a transgender employee's ability to get care for a procedure that has nothing to do with their transition. Many employers are recognizing this inequality and entering into health insurance contracts that affirmatively cover transition-related care. A growing number of state and federal regulatory agencies are prohibiting insurance plans from having such exclusions and some courts have ruled that such exclusions constitute employment discrimination. Advocate for your workplace to offer inclusive health insurance policies to employees.



Transgender Law Center has created a guide to assist in negotiating for trans-inclusive health benefits, click to download or visit www.transgenderlawcenter.org/resources/health.

RESPECT CONFIDENTIALITY AND PRIVACY.

It is almost never necessary to disclose a person's transgender status to clients or other coworkers. It is never appropriate to do so without permission from your transgender coworker. It is generally inappropriate to ask a coworker questions about their private medical history or treatment. Such inquiries may violate HIPAA privacy rules. If you have information about the health care that someone has received as part of their transition, do not freely share it with anyone else unless your transgender coworker has given you permission to do so.

HELP COWORKERS WHO ARE HAVING TROUBLE WITH ANOTHER EMPLOYEE'S TRANSITION.

It is important that coworkers support one another in respecting each other; this includes respecting transgender coworkers. When a transgender person transitions on the job, it can sometimes be difficult for coworkers to remember to use the correct name or pronoun. If you hear a coworker using the wrong name or pronoun, talk to them about it. It is likely just an unintentional slip and they will appreciate the reminder. If you hear coworkers making inappropriate comments about a transgender coworker's appearance or medical history, it is important to intervene in a respectful way. In most cases, coworkers genuinely want to be accepting and supportive of transgender coworkers and may simply not be fully aware of how to do so.

DON'T ASSUME THAT YOUR TRANSGENDER COWORKERS KNOW ABOUT ALL TRANSGENDER ISSUES OR WANT TO WORK ON TRANSGENDER CASES.

While some transgender employees may have a special interest in working on or discussing transgender-related issues, others may not. If you have a coworker whom you know to be transgender, make sure that you aren't expecting them to have all of the answers or to do your research for you. Expecting a transgender person to be the company's expert on all things transgender is an unfair burden on that person and can inadvertently tokenize them.

Transgender Law Center changes law, policy, and attitudes so that all people can live safely, authentically, and free from discrimination regardless of their gender identity or expression.

You can access Transgender Law Center's model employer policy at:
www.transgenderlawcenter.org/resources/employment

For support in working with transgender clients or transgender legal issues, please contact us at: www.transgenderlawcenter.org

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