

INTEGRATING TRANS PEOPLE INTO THE WORKPLACE

INFORMATION GUIDE

Presented by



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OBJECTIVES

This information guide aims to give employers the tools to create a transphobia-free workplace. It provides basic information about issues concerning trans people in the workplace, the employer's responsibilities and different measures to ensure the proper inclusion of trans people in your workplace.

TRANS IDENTITY

WHAT DOES IT MEAN TO BE TRANS?

Someone is trans when they feel a disconnect with the gender identity (“M” for male or “F” for female) that was assigned to them at birth.

Trans people have always existed. Several cultures have developed integration mechanisms that allow trans people to participate fully in society. For example, some of these mechanisms exist among First Nations peoples, in India and in certain countries that have not been strongly influenced by Western culture. In Canada, trans people have only recently begun to be recognized legally and socially. Although trans people are being better protected by the laws passed in recent years, prejudice and discrimination continue to exist in workplaces. This has been harmful to trans people, especially when it comes to finding a new job or keeping a job during their transition.

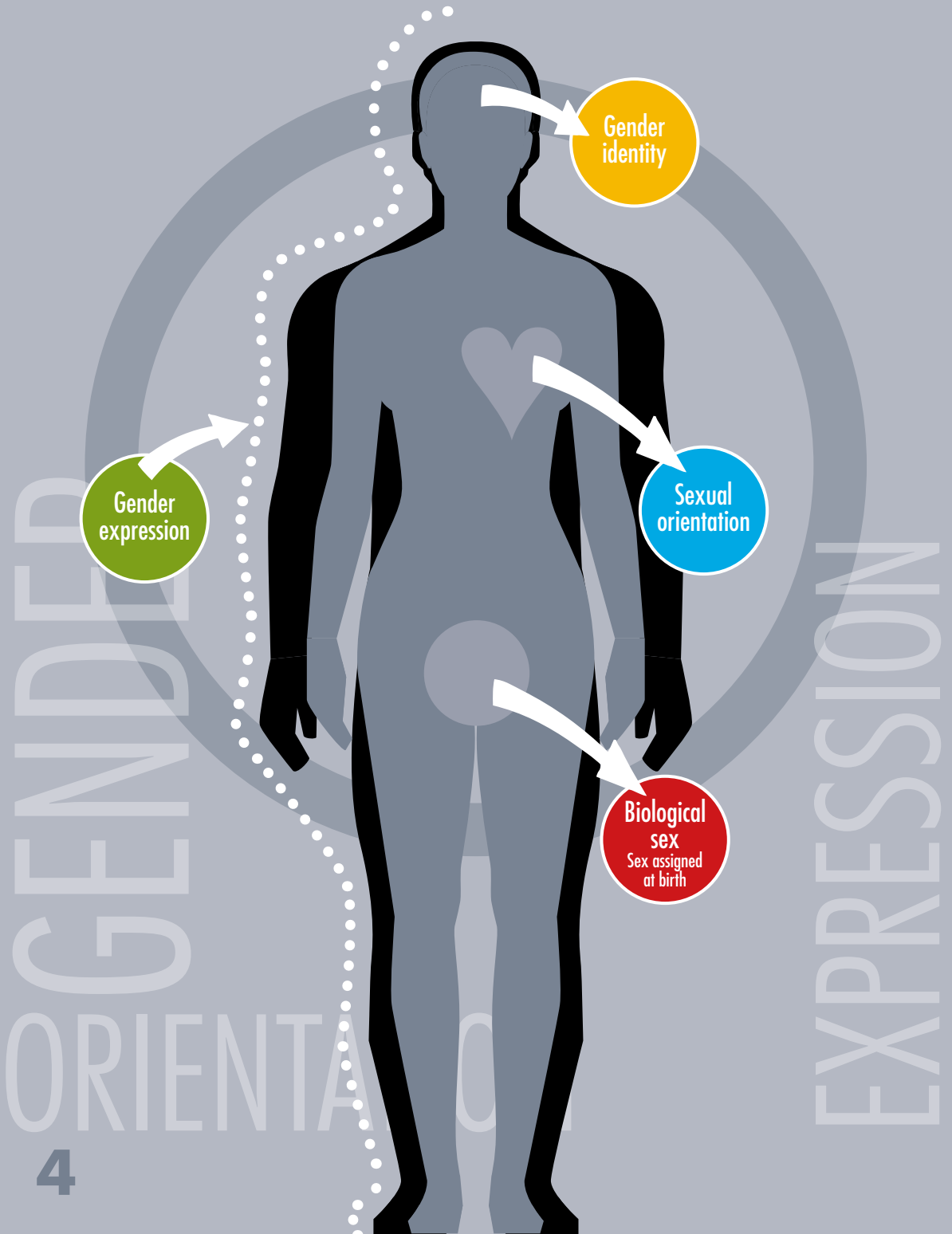
Depending on the environment they live in, many trans people prefer to stay hidden rather than to live their trans identity openly. In many cases, this can lead to anxiety for them, which can have serious physical and psychological consequences.

A trans person’s level of self-acceptance is directly related to the degree of either resistance or acceptance by their social environment: family, neighbours, colleagues, people at school, government workers (especially those in health and social services), the sports community, etc. A trans person is still essentially the same person inside as they were before they came out or transitioned, with the same personality, experience, culture, feelings, history, etc. Trans people are trying to reconnect their outer self with who they really are inside.

To better understand trans identity, here is a graphic illustration explaining the different components of identity. You can see that few people lie at the very ends of the arrows. Check for yourself: a person’s identity is much subtler than gender stereotypes would have you believe.



THE COMPONENTS OF IDENTITY



GENDER IDENTITY

The way that someone feels inside: man, woman, something in between or neither. This private, personal experience is unique to each person. It is not determined by the person's biological sex and can differ from the gender they are perceived to be by others.



GENDER EXPRESSION

The way in which a person presents their gender identity to others. For example, this includes the behaviours that the person adopts (such as body language), their physical appearance (hair, clothing, makeup, etc.), the names and pronouns they ask others to use when referring to them and all other actions taken to express their gender to others.



BIOLOGICAL SEX

This refers to what can be biologically identified as male or female according to the appearance of the genitals and other factors such as chromosome and hormones. Note that the sex assigned at birth is generally based on the appearance of the genitals and is not doesn't reflect the complexity of human nature (eg : intersex people).



SEXUAL ORIENTATION

This refers to sexual, emotional and/or romantic attraction, generally involving intimate relationships with people of the same gender or a different gender.



THE SOCIOCULTURAL COMPONENT

This refers to what is accepted in terms of social status for an individual within a given society. For example, members of the Hijra caste in India are sometimes considered a third sex. In some North American First Nations communities, some people are considered two-spirit (or 2S) because they have spirits that are both feminine and masculine. However, a non-indigenous person could not be considered two-spirit because that status does not exist in their culture. There is always an important sociocultural element to consider when it comes to identity.



COMMON QUESTIONS

IS A TRANS PERSON GAY?

Not necessarily. Gender identity and sexual orientation are two different things. Gender identity is the way one experiences their gender and sexual orientation is related to who a person is attracted to. It is important to note that there are no rules in this regard: the sexual orientations of trans people are as varied as those of cisgender (non-trans) people.

WHAT'S A CISGENDER PERSON?

It's a person for whom the gender identity they relate to corresponds to the one assigned to them at birth ("M" for male and "F" for female).

WHAT'S A TRANSITION?

Trans people, just like their cisgender peers, want to feel good inside and feel comfortable in their body. They sometimes try to align their outside appearance with who they are inside. This generally involves changing their lives with this goal in mind.



Did you know...

It wasn't until May 18, 2013 that the U.S. Diagnostic and Statistical Manual of Mental Disorders (DSM-5) removed "gender identity disorder" from its list of mental disorders.

Did you know...

Gender stereotypes are random characteristics (based on preconceived notions) that are attributed to a group of people based on their biological sex.¹

¹ Source: <https://www.lecrips-idf.net/professionnels/dossiers-thematiques/egalite-filles-garcons/concepts-sexisme.htm>



A FEW KEY DATES

- **April 1978** – Trans people are granted the right to obtain identification documents reflecting their gender identity. However, some conditions, including medical treatments and surgical interventions causing irreversible sterilization must be met.
- **April 1982** – The Provincial Court of Quebec recognizes that discrimination against a person who has transitioned is prohibited by the Quebec Charter. (File No.: 500-02-025974-812).
- **July 1998** – The Human Rights Tribunal of Quebec recognizes that discrimination against a transitioning person is prohibited by the Quebec Charter. (File No.: 500-53-000078-970).
- **November 1999** – The Quebec Court of Appeals recognizes the possibility of changing one’s first name on one’s identification documents without needing to change the gender marker on these documents. (File No.: 200-09-002310-982).
- **October 2015** – Removal of the requirement to undergo sex reassignment surgery to obtain identification documents reflecting one’s gender identity for trans people.
- **June 2016** – Discrimination based on gender identity or expression is expressly prohibited by the Quebec Charter.



INTEGRATING A TRANS PERSON INTO THE WORKPLACE



SOME ATQ MEMBERS

There are trans people in all types of workplaces. They are as capable as the rest of the population. Often, their unique personal journey relating to trans identity has allowed them to learn a lot about human relations. This is an asset, especially for businesses that work directly with the public.

Did you know...

The Trans PULSE (2010) project in Ontario surveyed 433 trans people regarding health and well-being. The survey revealed that 71% of trans people have a college or university degree while 50% have an annual income of less than \$15,000.

THE EMPLOYER'S ROLE: YOUR LEADERSHIP IS ESSENTIAL



Creating an inclusive workplace for trans people starts with active involvement from management. It is crucial for employers to set an example by demonstrating and clearly communicating to employees that transphobia and other forms of bullying towards trans people will not be tolerated in the workplace. Also, it is the employer's responsibility to implement measures encouraging the inclusion of trans employees, including ensuring there is no discrimination during hiring and, if

necessary, providing transition support measures for employees already working for the company. (See the sample transition plan in Appendix¹.)

Experience shows that employees follow the company's lead when it comes to integrating trans people. For example, trans people's use of gendered restrooms is not an issue if a policy of openness and respect is at the root of the company. That is, a work environment that clearly demonstrates its openness to diversity facilitates the integration of trans people.



INTEGRATING TRANS PEOPLE PAYS OFF!

There are many benefits to integrating trans people. Here are two examples:

- 1 Your employees, whether trans or not, will feel that no form of bullying or harassment will be tolerated. This encourages a healthy and respectful work environment for all. This increases productivity overall, because your employees will be happier at work and more loyal to your company. This also demonstrates your 21st century company culture and your open-mindedness, conducive to the emergence of new workplace realities.
- 2 Trans people have, for the most part, learned to think outside of the box and cultivate adaptability and creativity to find their new place in society. They like being innovative putting their knowledge and experience to good use.

Here are some examples of measures promoting the integration of trans people in your workplace:

- Install gender-neutral restrooms and changing rooms;
- If a uniform is necessary, an ideal uniform is gender-neutral. If there is a gendered uniform or a dress code, allow employees to choose the items that suits them best.
- Ask for everyone to respect trans people's name and pronouns changes;
- Support trans employees during a transition at work;
- Adopt measures to ensure equity in the workplace or during the hiring of a trans person;
- Do follow-ups with the trans employee if necessary.
- Celebrate the International Day Against Homophobia and Transphobia (May 17th)/transphobie.ca





THE EMPLOYER'S LEGAL RESPONSIBILITIES

Note: This section has a more prescriptive tone, but we are aware that each workplace has its own challenges. We merely wish to remind you of the employer's legal responsibilities. If there are any doubts on best practices, the trans employee may be the best person to ask for advice. The important thing is to have an open, proactive attitude and to listen.

All individuals have the right to equal treatment in the workplace. This right is granted by the Charter of Human Rights and Freedoms. As such, discrimination and harassment are prohibited in the workplace. In fact, employers and employees are prohibited from excluding an employee or colleague or treating them differently because of their sex, gender identity or gender expression. However, it may sometimes be necessary to give a trans employee special treatment to ensure true equality with other employees.

Did you know...

Gender identity and expression are the most recently added grounds for discrimination prohibited by the Quebec Charter of Human Rights and Freedoms. These provisions were added on June 10, 2016, following the adoption of the Act to strengthen the fight against transphobia and improve the situation of transgender minors in particular.





THE USE OF SURNAMES, FIRST NAMES AND PRONOUNS

It is important to address employees using the surname, first name and pronoun that they want us to use, even if they are different from those written on official documents such as civil status documents, health insurance cards, driver's licences, birth certificates, diplomas and other administrative documents. The intentional or persistent refusal to respect the gender that an employee identifies with is a denial of their identity and may be considered a form of discrimination or harassment.

- See sections 4, 5, 10 and 10.1 of the Quebec Charter of Human Rights and Freedoms in Appendix 2.



RESTROOM AND CHANGING ROOM USE

As an employer, it is your responsibility to put in place the resources that give your trans employees access to the restrooms and changing rooms of their choice. No one should be forced to use separate restrooms or changing rooms because other people have expressed their unease or fear. In cases where a dispute situation persists, you are obligated to ensure and provide working conditions that respect the health, safety and physical integrity of all your employees, including the trans ones. Restrooms and changing rooms can be made gender neutral, just like family changing rooms at public pools. If the employee wishes and if it is possible, they could also have access to a private stall or a private area of the changing rooms, but no employee should be forced to use these.

- See sections 4, 10 and 10.1, 16 and 46 of the Quebec Charter of Human Rights and Freedoms in Appendix 2.

RECOGNIZING THAT SKILLS MATTER MOST WHEN HIRING OR PROMOTING

Being trans has nothing to do with a person's skills or capabilities. During the hiring interview or for a promotion, it is important to evaluate your employee's level of competency with respect to the skills or qualities required for the job instead of focusing on their gender identity or gender expression. Otherwise, it may constitute discrimination and your company will have to describe, in a non-discriminatory way, why they did not hire or promote that trans person.

- See sections 16 and 20 of the Quebec Charter of Human Rights and Freedoms in Appendix 2.

OFFERING SUPPORT DURING TRANSITION

It is important to be proactive and support your employee during their transition. A transition usually unfolds gradually over a period of time that varies in length depending on the individual. It can include changes in clothing or physical appearance. Some people choose a medical transition (hormones, surgical interventions, etc.) while others will only make a few changes in their gender presentation.

- See sections 16 and 20 of the Quebec Charter of Human Rights and Freedoms in Appendix 2.

THE TRANS PERSON'S RIGHT TO PRIVACY

It is prohibited to disclose an employee's trans identity without their permission. As for all employees, the rules of confidentiality regarding personal information apply in the case of trans people.

- See sections 4 and 5 of the Quebec Charter of Human Rights and Freedoms in Appendix 2.
- See sections 2 and 13 of the Act respecting the protection of personal information in the private sector in Appendix 2.
- See sections 53, 54 and 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information in Appendix 2.

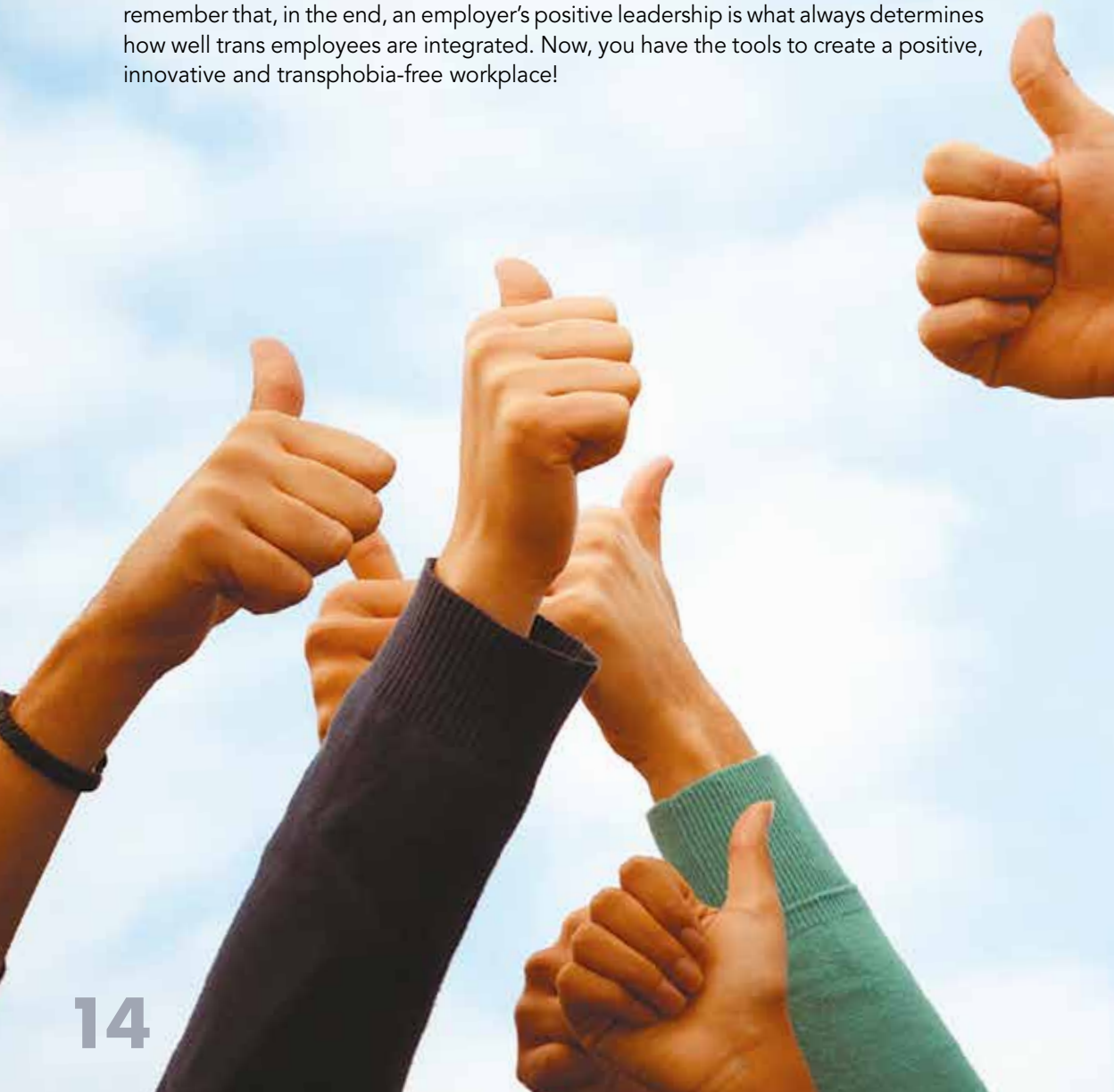


IN CONCLUSION

Trans people come from all walks of life and are present in all kinds of workplaces. They are not solely defined by their trans identity. Their life experiences, career path and areas of expertise make them as capable as the rest of the population.

Integrating trans people shows openness and innovation, and, more importantly, it demonstrates how quickly your company adapts to change. The results will be beneficial for everyone since integrating trans people at work means simultaneously fighting against other types of discrimination. It allows you to guarantee a work environment where employees can live authentically and flourish. The entire company will benefit from this.

Simple steps can be taken to allow most workplaces to adapt. Nevertheless, always remember that, in the end, an employer's positive leadership is what always determines how well trans employees are integrated. Now, you have the tools to create a positive, innovative and transphobia-free workplace!



SAMPLE WORKPLACE TRANSITION PLAN

Document adapted from: Model Transgender Employment Policy negotiating for inclusive workplaces, Transgender Law Center, 2013.

Note: the neutral form is used intentionally in this version to respect the spirit of the original document.

This transition plan covers several of the steps and changes that can be implemented in your company during a trans employee's transition. This plan is a model that should be tailored to your company's staffing structure and procedures, and should be customized to meet the specific needs of each transitioning employee.

Before the workplace transition begins:

1. The transitioning employee should get together with their selected first point of contact to make them aware of the employee's upcoming transition.
2. If the point of contact is not in HR, then the transitioning employee should be referred to HR. Make sure the employee knows about the company's transgender-related policies and the availability of transition-related health care benefits.

3. Next, if the transitioning employee's supervisor was not the first point of contact, a meeting between the transitioning employee and the employee's supervisor—and others, if desired by the transitioning employee—should be scheduled to ensure the supervisor knows about the employee's planned transition. Note: Management beyond the transitioning employee's supervisor should be made aware of the employee's planned transition so that leaders can express their support when the employee's transition is made known to the employee's work team.
4. The transitioning employee and their initial contact person should meet to discuss all of the individuals who will need to be included in the workplace transition plan. This should include the employee, the employee's immediate supervisor and someone from HR. It can also be useful to include a representative from the company's LGBT employee resource group. All members of this transition team should familiarize themselves with the company's policies and any other relevant resources that provide educational information about transgender issues. Keep in mind that a timeframe would be helpful for when each person needs to become involved in the employee's transition process, as it is likely not all individuals of the transition team need to be brought on board at once. Also recognize that certain stages of the workplace transition process will require more time than others. Set a timeline that attempts to realistically and accurately predict how long each step should take.
5. Create the Workplace Transition Plan. Make sure it addresses all of the following areas:
 - I. The date when the transition will officially and formally occur. This means the date that the employee will be referred to with their new name and pronouns in the workplace. The transitioning employee may choose to begin using the restroom and locker room associated with their gender identity on this date as well. The transitioning employee will know best when this should occur as they are aware of different 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 they 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 kind of training or information 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, once they have received confirmation of their name and gender marker in the civil registry.
 - V. Determine dates for any leave that may be needed for medical procedures, if applicable.
6. Ensure that all name changes and photographs are updated in advance so that they can go live on a date agreed upon by the employee and the employer. This includes email addresses. Make sure to keep in mind that name changes within certain processes could take longer than in others. Take this into account for 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, the employee's co-workers and any other team or regional leadership if they are able to attend live. Otherwise, remote conference any members of the transition team or the employee's work team that cannot be there live. It's important to have this meeting in person if at all possible. 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 they feel 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 high-level management who are there in order to show solidarity for the transitioning employee. The speaking supervisor must:
 - I. Emphasize the transitioning employee's importance at the company and the management's complete support of the employee's transition.
 - II. Review the company's relevant nondiscrimination and transgender inclusion policies.
 - III. Indicate that the transitioning employee will be presenting themselves in accordance with their gender identity and that this should be respected. The manager should also encourage co-workers to use the transitioning employee's new name and pronouns.
 - IV. Use the transitioning employee's new name and pronoun in all communications – 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 a training session 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 for a successful transition, 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.
2. Ensuring all work documents have the appropriate name and gender and checking that these have been changed in all of the places an employee's name may appear.

SOME SECTIONS OF THE QUEBEC CHARTER OF HUMAN RIGHTS AND FREEDOMS.

Section 4. Every person has a right to the safeguard of their dignity, honour and reputation.

Section 5. Every person has a right to respect for their private life.

Section 10. Every person has a right to full and equal recognition and exercise of their human rights and freedoms, without distinction, exclusion or preference based on race, colour, sex, gender identity or expression, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap. Discrimination exists where such a distinction, exclusion or preference has the effect of nullifying or impairing such right.

Section 10.1. No one may harass a person on the basis of any ground mentioned in section 10.

Section 16. No one may practise discrimination in respect of the hiring, apprenticeship, duration of the probationary period, vocational training, promotion, transfer, displacement, laying-off, suspension, dismissal or conditions of employment of a person or in the establishment of categories or classes of employment.

Section 20. A distinction, exclusion or preference based on the aptitudes or qualifications required for an employment, or justified by the charitable, philanthropic, religious, political or educational nature of a non-profit institution or of an institution devoted exclusively to the well-being of an ethnic group, is deemed non-discriminatory.

Section 46. Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment which have proper regard for their health, safety and physical well-being.

Act respecting the protection of personal information in the private sector

- **Section 2.** Personal information is any information which relates to a natural person and allows that person to be identified.
- **Section 13.** No person may communicate to a third person the personal information contained in a file they hold on another person, or use it for purposes not relevant to the object of the file, unless the person concerned consents thereto or such communication or use is provided for by this Act.

Act respecting Access to documents held by public bodies and the Protection of personal information

- **Section 53.** Personal information is confidential, except in the following cases:
 - o 1° the person to whom the information relates consents to its disclosure; in the case of a minor, consent may also be given by the person having parental authority;

- o 2° where it relates to information obtained by a public body in the performance of an adjudicative function; the information remains confidential, however, if the body obtained it when holding a sitting in camera or if the information is contemplated by an order not to disclose, publish or distribute.

- **Section 54.** In any document, information concerning a natural person which allows the person to be identified is personal information.
- **Section 59.** A public body shall not release personal information without the consent of the person concerned.

Notwithstanding the foregoing, a public body may release personal information without the consent of the person concerned in the following cases and strictly on the following conditions:

1° to the attorney of that body if the information is necessary to prosecute an offence against an Act administered by that body or to the Director of Criminal and Penal Prosecutions, if the information is necessary to prosecute an offence against an Act applicable in Québec;

2° to the attorney of that body, or to the Attorney General where they are acting as the attorney of that body, if the information is necessary for purposes of judicial proceedings other than those contemplated in paragraph 1;

3° to a body responsible by law for the prevention, detection or repression of crime or statutory offences, if the information is necessary to prosecute an offence against an Act applicable in Quebec;

4° to a person to whom the information must be disclosed because of the urgency of a situation that threatens the life, health or safety of the person concerned;

5° to a person authorized by the Commission d'accès à l'information, in accordance with section 125, to use the information for study, research or statistics purposes;

6° (paragraph repealed);

7° (paragraph repealed);

8° to a person, body or agency, in accordance with sections 61, 66, 67, 67.1, 67.2, 68 and 68.1;

9° to a person involved in an incident that has been the subject of a report by a police force or by a person or body acting in conformity with an Act that requires a report of the same nature; in the case of information on the identity of any other person involved in the incident, except a witness, an informer or a person whose health or safety could be endangered by the release of such information.

RESOURCES

Advisory service on reasonable accommodation

Commission des droits de la personne et des droits de la jeunesse

Telephone: 514 873-5146
or 1 800 361-6477, option 2
Head office: 360 Saint-Jacques St, 2nd floor
Montreal, Quebec H2Y 1P5

Crisis and referral line, Aide aux Trans du Québec

ecoute@atq1980.org
514-254-9038

Pride at Work

66 Wellington St West
PO Box 1091 TDC
Toronto, Ontario M5K 1P2
416-309-8410
info@prideatwork.ca

The 519 Programs - Trans-Specific

519 Church Street
Toronto (Ontario) M4Y 2C9
416-392-6874
info@the519.org

MAIN REFERENCES

- Creating Authentic Spaces: A gender identity and gender expression toolkit to support the implementation of institutional and social change, *The 519*, 2015, 92 p.
- New Legal Rights for Transgender People, *Éducaloi*, Article published on: 17/11/2015
- Model Transgender Employment Policy negotiating for inclusive workplaces, *Transgender Law Center*, 2013, 9 p.
- Backgrounder on Transphobic Harassment and Discrimination in Employment and Health Care, *CUPE Equality*, July 2013, 9 p.
- Workers in Transition: A Practical Guide About Gender Transition for Union Representatives. *Canadian Labour Congress*, 2010, 50 p.
- Discriminatory Harassment in the Workplace: A policy against discriminatory harassment in the workplace, *Commission des droits de la personne et des droits de la jeunesse*, 2004, 21 p.

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FONDATION ÉMERGENCE

The Fondation's mission is to educate and raise public awareness about the realities of gay, lesbian, bisexual and trans (LGBT) people. Fondation Émergence has accomplished several great things: awareness campaigns, studies and surveys and, especially, the establishment of the International Day Against Homophobia and Transphobia (www.homophobie.org and www.transphobia.ca)

AIDE AU TRANS DU QUÉBEC (ATQ)

Helping and listening are the two pillars of support offered by *Aide aux Trans du Québec* through various activities, conferences, group meet-ups, the dissemination of information and a crisis line. Each year, ATQ organizes Trans Pride Day.

DISCOVER 3 SUCCESSFUL INTEGRATION STORIES!



Emma

Galerie Dentaire



Samuel

CIUSS Mauricie-et-
du-Centre-du-Québec



Marie Isabelle

Pratt & Whitney Canada



fondation

émurgence

Fight against
homophobia
and transphobia



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