

# **Workers in Transition**

## **A Practical Guide for Union Representatives**

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# TABLE OF CONTENTS

<b>COMMENTS ON THIS GUIDE</b> .....	<b>5</b>
<b>INTRODUCTION</b> .....	<b>6</b>
Who are our Trans Members? .....	7
What is Transition? .....	8
Timing and Process of Transition .....	9
<b>ELEMENTS OF A TRANSITION PLAN</b> .....	<b>12</b>
a) Agreeing to a Process .....	12
b) Statement of Objectives .....	14
c) Privacy and Confidentiality .....	14
d) Key Contacts .....	15
e) Who Needs to Know? .....	16
f) How Much Information Should be Provided? .....	16
g) Timing .....	17
h) Changes to Identification and Documentation .....	17
I) Washrooms .....	18
j) Changerooms .....	19
k) Uniforms and Dress Codes .....	20
l) Benefits and Additional Medical Expense Coverage .....	20
m) Anti-Harassment Plan .....	22
n) Co-workers, Clients/Public .....	23
o) On the Job .....	23
p) Overall Workplace Changes .....	24
<b>GUIDELINES FOR MANAGEMENT/ UNION REPRESENTATIVES</b> .....	<b>25</b>
<b>CHECK LIST FOR TRANSITION PLAN MEETING</b> .....	<b>27</b>
<b>IF YOU'RE THE ONE TRANSITIONING ON THE JOB</b> .....	<b>29</b>

<b>TRANS ISSUES AND THE LAW</b> .....	<b>31</b>
a) Employer Obligations .....	31
b) Union Obligations .....	32
c) Worker Obligations .....	32
<b>LEGAL DECISIONS ON TRANS ISSUES</b> .....	<b>33</b>
<b>COLLECTIVE AGREEMENT MODEL LANGUAGE AND BARGAINING DEMANDS</b> .....	<b>38</b>
<b>TRANS ISSUES BEYOND THE WORKPLACE</b> .....	<b>40</b>
Transgender Day of Remembrance .....	41
<b>UNION ACTION ON TRANS ISSUES</b> .....	<b>42</b>
<b>SOME DEFINITIONS</b> .....	<b>45</b>
<b>TRANS RESOURCES AND ORGANIZATIONS</b>	
Resources .....	48
Organizations .....	48
Reports .....	49
Movies/Films .....	49
<b>SAMPLE WORKPLACE LETTER</b> .....	<b>51</b>
<b>ARTICLE: MY DAUGHTER, MY SON, MYSELF</b> .....	<b>53</b>
<b>SAMPLE TRANSITION PLAN</b> .....	<b>56</b>

## Trans Workers' Comments

*"I've just read through the manual and I'm really impressed. It is very pragmatic in its orientation and I think would be a great resource for any transitioning worker in educating union reps, employers and fellow workers."*

Trish

*"This guide would have saved me a lot of difficulties and stress trying to come up with solutions on my own during my transitioning. I am sure others will benefit from this work."*

Erica

*"I think the manual is great. One thing to remember is that trans people follow their dreams to the person they were meant to be."*

Max

*"I would find the document useful both as information and as reassurance of the support of my union. In both respects, this would make it especially useful to someone at the planning stage of transition, preparing for first discussions with the union or human resources."*

Annette

*"My advice to union reps is to realize that someone who chooses to transition in the workplace has really thought about it and taken what steps they needed to get to that decision. Now they have come to dealing with it in the workplace and should be given the respect for privacy and the ability to work in a safe environment. Do not assume you know what they want and need. Please ask questions."*

Nikki

# Introduction

Thanks to some of our 'out' trans union members, leaders and human rights advocates in the labour movement are becoming increasingly educated on trans issues in the workplace and the community.

This guide is designed for trade union leaders, union staff representatives, local executive and committee members and shop stewards so that we can better protect the rights of our trans members and ensure they have the support they need before, during and after they transition.

A transsexual is someone who has changed or is in the process of changing their biological sex so that it conforms to their gender identity. And so, they transition to living life in their gender identity – sometimes taking steps to bring their body in line with who they are. Trans issues are complex (ask a trans person – they'll likely agree!). But as we struggle to come to terms with challenges to traditionally established notions of gender, we can rely on basic union principles to guide us.

We believe in everyone's right to dignity on the job. We believe in everyone's right to a safe and healthy workplace. We believe in workplaces free from harassment and discrimination. We believe in negotiating wages and benefits for all of our members. We believe our employers should not dictate, or have access to information about, our private lives. We believe in using our power to strengthen minority rights. We believe that an injury to one is an injury to all. And we know how to represent workers.

Trans workers are workers, trade unionists and part of our movement.

We know it's wrong for employers to fire people based on irrelevant personal characteristics. We know it's wrong when one of our members is afraid to come to work for fear of co-worker harassment and violence. We know it's wrong when employers deny one of our members access to benefits while providing it to others. We know it's wrong when any member faces ridicule on the job. We know it's wrong when employers leak private information about us. We know it's wrong when one of our members is afraid to turn to the union for help, for fear of

being rejected. We know it's wrong when the majority stands silently by and watches a member suffer.

Unions have a legal and moral responsibility to defend all members. And, we have a strong track record and the skills and tools needed to defend the rights of minority workers.

## **Who are our Trans Members?**

Trans people come from all walks of life and are represented in every race, class, culture and sexual orientation. Unionized trans members work in manufacturing plants, in hotels, in retail, in government, in nursing homes – in short, in every sector of the economy.

Some of our trans members 'pass' in their everyday lives -- nobody detects that their gender identity and gender expression (for example, female) don't match their birth sex (for example, male).

Some of our members transition in all parts of their lives (at home, with friends and family, etc.), except at work – as devastatingly uncomfortable as that is – out of fear of rejection, ridicule, harassment, violence, termination.

Others transition on the job – male-to-female (MTF), or female to male (FTM).

Still others quit their jobs (well paying, unionized jobs with benefits) out of an all-too-real fear that management and co-workers would make the workplace too hostile to endure during and after they transition and begin living their life fully in the opposite gender.

Discrimination in employment is one of the biggest factors facing trans people -- no doubt we would have more transgender members if employers didn't discriminate and shut trans people out of the workplace.

**This guide has been developed so that workers can transition on the job – so that they get support from their union and the employer**

**and they don't have to choose between their livelihood – and their life.**

## **What is transition?**

Transition is the process of changing from one sex to another, from one gender role to another. Transitioning involves hormone therapy, living according to gender identity - not biology, and sometimes (but not always) it involves surgery. Each person creates their own unique path. Because of the difficulties encountered, most people use a therapist who deals with gender issues to help them along their path.

Transsexuals are first diagnosed ('gender dysphoria') by a specialist, usually a psychiatrist. Of course, trans people usually have their own pretty good handle on their situation, but the credit for the diagnosis always goes to the specialist!

After about six months of hormone therapy, bodily changes usually take place that are noticeable. Around this time, the person will change social gender – and begin to express themselves in the clothing, styles, mannerisms and by name and pronoun of their emerging physical sex (male or female).

At some point the individual starts to live full time as a member of their “new” sex<sup>1</sup>, and their name and other records will be formally changed. Once someone changes social gender they need to be treated as fully belonging to that gender.

Often the workplace is the last place trans people express their social gender, knowing that the financial, emotional and personal safety risk is high. Many trans people feel that the transition to social gender is the most vulnerable time in transition – long before any surgery.

After one or two years of living in their social gender, many trans people elect to have sex reassignment surgeries. (In fact, in order to be eligible

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<sup>1</sup> Of course there is nothing “new” about their gender - their sex/physical characteristics and hormones are just being brought into line with the gender they've always been.

for SRS, trans people must meet the “real life test” of living in their social gender for a period of one or two years, based on the requirements of the gender clinic they attend).

Surgeries might take place over a period of months, or years, or not at all. This will depend on the trans person’s wishes, finances, life circumstances and treatment options/availability. Most surgical procedures, with the exception of genital surgery, require less than two weeks absence from work (genital surgery is more likely to require two or three months). Trans people go into surgery healthier than most people who have surgery for illness or disease, and so their recovery time is usually faster and they’ll likely have fewer restrictions on return to work.

Sex reassignment surgeries and hormone therapy are highly successful medical treatments – and can be life saving. The stress that accompanies “living in the wrong body”, transitioning, and going through sex reassignment surgeries cannot be underestimated. However, once the issues related to gender identity are resolved, people are able to get along with the lives they were meant to lead.

Many people wrongly assume transsexuality is about sexual orientation. It’s not. The reasons that people have a sex change have to do with their own personal sense of who they are, and are not about who they want to have a relationship with. Some trans people enter into same-sex relationships after transition, while others seek opposite-sex relationships. Some maintain their relationships from prior to transition, others don’t.

## **Timing and Process of Transition**

Transition is a long process. By the time a worker is ready to discuss their transition plan with their employer and union, they have likely spent years thinking it through and preparing.

They may even have been living in their social gender (the gender they identify with, not their physical sex) for quite some time, outside of the workplace. For many trans people the workplace is the last place where they exhibit their true gender.

One of the common mistakes made by management and unions is assuming that the transition doesn't happen "until the surgery is complete". This is a bit like not accommodating a pregnant woman until the baby is born.

**The most critical time to support a worker in transition is at the very beginning stages of their transition in the workplace, when the worker takes their first steps in expressing their gender, changing their name, and letting people know about their plans.**

As soon as a worker outlines their plan to transition, they need workplace support. It's at this point that records need to be changed, that people need to begin using the worker's new name and referring to them by the correct (new) pronoun, that they require safe access to changeroom/washroom facilities, etc. and that they need the solidarity of those around them to help protect their dignity and security. Not only is this the support that trans workers need, it is the employer's and union's legal obligation to provide it.

Employers and unions cannot delay action until legal name changes, surgery, hormone therapy, etc., take place. The idea of 'waiting' until a trans person has completed their surgery doesn't reflect the reality of the transition process, nor does it acknowledge the fact that surgery is not the goal of every transition.

Trans people have their own markers for transition that may or may not, for example, include genital surgery. Society, on the other hand, is eager to see 'completion' and (surprise surprise) thinks it's all about genitalia. Many trans people transition successfully, but do not opt for surgery. For some trans people SRS is essential to their transition; for others, access to hormones is enough.

Transitioning in the workplace may be simultaneously both liberating and terrifying.

**Jesse's story:**

*"I agonize daily over whether or not to tell my co-worker, who is also my supervisor, that I am a transsexual. Every time I have to ask for time off for yet another doctor's appointment I worry that*

*he thinks I'm just trying to skip work. I wonder, if I should tell him I'm seeing a psychiatrist so he'll accept my need for medical appointments as often as every three weeks. I ponder whether or not telling him the truth will irreparably damage the good relationship that I have with him. Will I suddenly be denied vacation time of my choice or begin to have the length of my coffee break closely scrutinized? Will my work, which is now acceptable, become unacceptable. When I ask for two days off to go to Toronto for some minor revision surgery I am truly concerned that he thinks I am pulling one over on him. He asks, "What's wrong with the surgeons here?" It's an opening for me but I'm too scared to take it. I remain silent. He's a good guy and I actually think he would take it well. But the moment when you first utter those words there is no turning back.*

*More than anything I worry that once the word gets out in my workplace – where I already feel isolated – my co-workers will become hostile. I'm probably worrying for nothing; I've told quite a few people now and most have taken it well, although some suggest that perhaps I'm crazy. They think the medical intervention is too dramatic a thing to go through. Some ask, "Aren't you concerned about damaging your health with hormones?" Still, they don't treat me any differently. So far. And now time is running out for me to tell the rest. This is not at all like being gay in the workplace; I cannot pick and choose safe confidants. Eventually, whether I tell or not, it will become apparent to everyone."*

*(Excerpted from an article by Jesse Invik in Our Times – Canada's Labour Magazine, Vol. 25 No. 6 December 2006 - January 2007)*

# Elements of a Transition Plan

Our collective agreements need to include language that protect trans people from discrimination and harassment and should include general guidelines outlining the employer's responsibility during a worker's transition (see page 38 for model language).

However, each trans person's situation will vary, and so in addition to collective agreement language, an individualized transition plan should be developed that outlines how the employer and union will support the worker's plans to transition on the job.

At a minimum, a transition plan should lay out objectives, timing for informing co-workers, changes to identification and documentation, washroom/changeroom facilities, anti-harassment planning, and medical leaves (where required).

*Developing a transition plan isn't about bargaining 'special rights' for trans people. Trans people certainly aren't asking for anything 'special' – simply a safe place to work, a safe washroom/changeroom, the right to be called by their name, the right to accommodation, and the right to be referred to by their chosen gender - the same rights most people take for granted. However, in the case of trans members, special measures do need to be taken to ensure that basic rights are protected.*

## **a) Agreeing to a Process**

*“Transition is highly personal and necessarily revolves around the needs of the person in transition. What washroom would they feel comfortable using? How do they want to dress while they're waiting for hormones to kick in? What name do they wish to use during that time? And so on.”*

*Kyle Scanlon*

The key to a successful transition process involves employers and union reps working with trans workers to determine their needs and agreeing together on a process for the transition. Everyone goes through their transition differently. Therefore, the transition plan needs to be flexible.

Some will go through very quickly and others more slowly. Others still will only come out of the closet once the transition is over. The transition plan for medical and surgical procedures may have to be amended as the process develops - the “expected” dates referred to below are just that - “expected”.

Issues will include:

- Whether the employee wants to stay in their current job or be transferred.
- The expected timescale of the medical and surgical procedures.
- The expected point or phase of change of name, personal details and social gender (this, rather than biological changes, will likely be what prompts the initiation of the transition plan).
- What time off will be required for medical treatment.
- Whether or not the worker wants to inform their supervisors, co-workers, clients, patients, customers about their transition, and if so, do they want to do so themselves, or have this done by the union/management.
- What amendments need to be made to records and systems (and the timing for this).
- Whether a trans worker is adequately covered by existing policies on issues like confidentiality, harassment, and insurance, and if not, how these will be amended.
- Whether training or briefing of co-workers/clients/patients will be necessary, and at what point and by whom this will be done.
- How to handle any harassment, hostile reactions, or unwanted interest

## **b) Statement of Objectives**

A transition plan should begin by clearly laying out the goals of all parties (the worker, the employer, the union). Some suggestions follow.

- That the employee will remain at her<sup>2</sup> current job in her current location;
- That the union, co-workers and the employer will ensure that she enjoy all the same rights with respect to privacy, safety, code of conduct, etc., in the workplace;
- That the employer and the union will deal with any harassment quickly and decisively;
- That at her request, the employee will be accommodated in another comparable position in the workplace if re-integration into the current work site fails;
- That the employer and the union will ensure that the employee is accommodated with respect to medical leave, proper and appropriate facilities, documentation/identification changes, and benefit coverage;
- That together the employer, the union and the employee will work to resolve any issues that arise through transition.

## **c) Privacy and Confidentiality**

Transsexual workers have the right to privacy. There must be no unnecessary disclosure of medical information. Referring to a person's trans status to others, without their explicit permission, is outing them and is a breach of their privacy (e.g., don't tell people they're about to meet a trans person).

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<sup>2</sup> Always use the pronoun that the worker is transitioning to, as soon as you learn of their transition. In the case of male-to-female, always refer to 'her/she', in the case of female to male, 'him/he'.

### **Sample transition plan language:**

*“Thus far knowledge of this situation has been limited to (insert names). Advising others must be done with sensitivity and respect of the employee’s privacy and only on a need-to-know basis for the purposes of achieving our objectives.”*

“Need to know” refers to those directly involved in the administration of a process, for example, a medical officer, or the person who authorizes payments into the pension plan. It does not refer to co-workers, clients, or line managers, and breaches of confidentiality should be treated very seriously, as would any other gossip about a personal medical or social situation. “Outing” is understood to be a form of harassment that puts the worker’s physical and emotional safety at risk.

Transition plans should be discussed and communicated only in order to manage expectations and to minimize inappropriate responses.

There is no general need or obligation to inform everyone in the workplace that a worker is undergoing sex reassignment.

### **d) Key Contacts**

A transition plan should lay out who the key union and management contacts for the worker will be. These individuals will take a proactive role in ensuring a smooth transition, and troubleshoot any potential workplace conflict/harassment.

### **Sample transition plan language:**

*Going forward, the key management contact for the employee throughout transition and integration back into the workplace is (insert name of manager/supervisor/HR person). The key union contact is (insert name of steward/advocate/committee person/chairperson/etc.).*

## e) Who Needs to Know?

A transition plan will include when, how, and if a worker plans to communicate their new gender to their co-workers/supervisors/clients/customers.

Not all workers in a large workplace need to be notified of a worker's transition. This information is necessary only where the relationship with someone who knew the person prior to their change of status is to continue. Some workers prefer to tell their co-workers themselves (sometimes through a letter); some prefer to have management or the union let people know.

### **Max's story:**

*"I went to the managers in the office that were gay first, to tell them about my process. Then I went to the Manager of [the division]. I spoke to some of my friends and had a book with me to explain trans issues. ... When I started my transition at work I wrote a letter to all of my co-workers. I think the most important thing I told them is "I am still the same person inside – that doesn't change – only the outside package is going to change." My transition from FTM (female to male) does not change how I feel about my friends and family, I am the same understanding, non-judgmental loving person I always was."*

## f) How Much Information Should be Provided?

Just like any other worker's personal medical situation, nobody in the workplace is entitled to any information about the transitioning worker's medical issues, or any details about their transition unless voluntarily provided by the worker him or herself.

Asking personal questions is not only inappropriate, but can be considered a form of harassment.

The CLC's booklet: ***"To Our Allies: Everything you ever wanted to know about lesbian, gay, bisexual and trans issues"*** answers general

questions about trans issues and transitioning. It should be provided to management and union reps – whether or not there are known trans workers in the workplace.

During a worker's transition it will be useful to have the booklets on hand. The transitioning worker may recommend distributing the booklets to workers in the immediate area, or perhaps even a wider distribution. That way people get basic general information and the individual worker isn't made to feel responsible for educating everyone!

Distributing the Allies booklet during a worker's transition should only be done with advance notice and agreement from the transitioning worker themselves. Copies of the booklet are available from the CLC, at [womens-hrights@clc-ctc.ca](mailto:womens-hrights@clc-ctc.ca).

## **g) Timing**

At the point of change of social gender (e.g. name change, gender expression/clothing/hairstyle), it's common for some trans people to take a short leave from work and return with a new name and gender role (for example, following a vacation). Basic information may be provided to co-workers a few days before the worker returns so that co-workers have some time to adjust (but not too much, to avoid speculation and harassment).

If the worker is returning to work in a new location, there is likely no need to inform any co-workers or managers that the worker has transitioned; sharing personal information is up to the worker. The key contacts should stay in touch with the worker to ensure that no problems are encountered.

## **h) Changes to Identification and Documentation**

At the worker's request all workplace records must be updated to reflect the worker's new name and gender.

This includes (but is not limited to):

- Seniority lists
- Name tags
- Email and phone directories
- Identification cards or badges
- Security lists
- Trade certificates
- Insurance records
- Pension records
- Licenses, etc.

Where these documents are in the sole control of the employer, they should be changed immediately. The employer cannot demand that other pieces of identification (e.g., government ID) be changed first, unless there is a direct link between personnel and government records (e.g. trades certificates, pensions, licenses and insurance). However, all records must be amended as soon as the legal name change has taken place.

Once all records have been changed, the trans person's previous name and gender should no longer appear in any personnel records, unless required by law. There is likely no rationale for maintaining a record of the transition or the person's prior identification.

**Sample transition plan language:**

*“The employer and the union will update all employee records and directories to reflect the employee’s name and gender change, and will ensure that all workplace related documents (e.g. pension and insurance) are also amended. No records of previous name or sex will be maintained, unless required by law.”*

**i) Washrooms**

Like everyone else, trans workers need to use washroom facilities with safety and dignity.

It is the employer's responsibility to provide safe washroom facilities to the worker during and after transition. The transitioning worker has the

right to use the washroom of their social gender, whether or not they have sought or completed surgeries.

**As trans activist Courtney Sharp says:**

*“Employers who want to find solutions have found solutions. Those who do not want to find solutions tend to use the issue as an excuse to terminate the employee. Sure, (people) worry about the bathroom question, but we told them, ‘listen, everyone has to go to the bathroom . . .but if you’re worried about what’s between someone’s legs – you’re the one who is being inappropriate.’ In the end, trans workers must have access to safe and dignified bathroom facilities.”*

The employer and the worker should agree on the timing of when the worker begins using the washroom of their social gender, so that the employer is prepared to support the worker in transition, and to deal with any concerns from other workers.

On a temporary or permanent basis the worker may prefer to have access to a single-use bathroom (with a lock), to ensure their safety and dignity are maintained. The employer must accommodate this request.

If these facilities are further from the worker’s work area, break times may have to be adjusted.

Employers and the union need to make it clear to all employees that trans workers have the right to use the facilities that correspond with their gender identity, and that they expect everyone’s cooperation.

If a co-worker raises a concern about a trans worker using the same washroom, the worker with the concern may be permitted to use a different washroom elsewhere in the facility.

## **j) Changerooms**

As with washroom facilities, the employer is required to ensure the transitioning worker has access to the change room facility of their social gender.

Where changerooms do not have separate privacy stalls, an accommodation must be made (for example, access to a single-use facility, or a re-design of existing facilities). The accommodation requires the cooperation of the employer, the union, co-workers and the transitioning worker.

## **k) Uniforms and Dress Codes**

A worker in transition must be permitted to dress consistently with their gender identity, and is simply required to comply with the same standards of dress/appearance as any other worker.

The decision on when and how to begin dressing according to gender identity is made by the worker<sup>3</sup>, preferably with notice given to the employer and union to ensure that the worker is protected from any negativity that could arise.

If there are uniforms worn in the workplace, and if uniforms are gendered (i.e. there is a men's uniform and a women's uniform), then the worker must be provided with the choice of which uniform to wear. If/when they opt for a new uniform, they must be supplied with uniforms that fit appropriately, or are tailored to fit appropriately.

The employer should allow some flexibility in dress code to accommodate the process of transition – for example, a worker transitioning from male to female may prefer to wear the standard 'female' blouse with their men's workpants – either temporarily or permanently.

Practical details, such as who pays for uniforms, should be dealt with according to the usual policy on similar issues (e.g. during pregnancy).

As a general rule, we need uniform policies that give all of us real choices that we all feel comfortable with (gender neutral, and appropriate in fit).

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<sup>3</sup> This decision is usually made by the worker in consultation with their health care provider(s).

## **I) Benefits and Additional Medical Expense Coverage**

Trans workers face many of the same healthcare needs as the workforce at large, and their needs should be treated in exactly the same way as any other medical requirement.

Transition-related health care needs are not cosmetic.

Transitioning workers may require medical coverage for some or all of the following: hormone therapy, wigs, breast prosthesis and bras for prosthesis, silicone/saline implants, electrolysis/laser hair removal, voice classes for pitch/modulation, counselling/psychologists, and sex reassignment surgeries (e.g. genital surgery, breast augmentation or reduction, cartilage shave, etc.)

Many benefit plans already provide some of the coverage listed above (for example, hormone therapy, wigs, breast prosthesis, etc., may already be covered for cancer survivors). There can be no discrimination in access to these benefits.

In some provinces a number of these costs were previously covered by public health insurance but have been de-listed. The labour movement supports the position that de-listed services (i.e. ambulances, eye exams) should be relisted and failing that should be bargained with employers. In Ontario, electrolysis/laser hair removal used to be covered by OHIP for hormone imbalances. Sex-reassignment surgery (SRS) was de-listed by the Harris government in Ontario<sup>4</sup>. The cost for surgery for male to female transition is approximately \$20,000.

We need to negotiate SRS benefit coverage with employers, and at the same time continue to call for its inclusion in provincial health plans.

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<sup>4</sup> This mean-spirited attack on trans people saved Ontario taxpayers just over \$110,000 a year - a tiny fraction of a multi-billion dollar budget - and it put trans people in limbo: those part-way through SRS could not afford to complete their surgeries and had to take the government to court where they won only limited recourse. In May 2008, the provincial government finally announced that they would re-list SRS.

## **Bargaining Demand:**

*“The employer will direct its insurance provider to include coverage (under group benefit plans) for sex re-assignment surgeries. In addition, they will include coverage for any transition-related expenses, not already covered under the benefit plan (for example: wigs, electrolysis, breast prosthesis, hormone therapy, silicon/saline implants, special bras for prosthesis, voice classes, counselling, medical-related travel expenses, etc.).”*

## **m) Anti-harassment Plan**

All workers are entitled to expect that their dignity and safety remain intact at work. Employers are legally responsible for providing a harassment-free workplace, and protecting workers from harassment from supervisors, co-workers, clients, and the public.

Harassment policies and procedures need to be amended to include gender identity and gender expression as prohibited grounds of harassment, in order to directly acknowledge the risks faced by the trans community<sup>5</sup>. Negotiated anti-harassment training (for management and workers) must include the issue of harassment based on gender identity and gender expression.

Harassment is probably the greatest concern of trans workers. Hostile reaction from management and co-workers threatens a worker’s emotional, psychological and physical safety. Too often trans people face taunting, isolation, inappropriate/intrusive comments and questions, verbal and sometimes even physical abuse. Supervisors or co-workers may refuse to refer to trans people by the name and by the pronoun of their choice. All of this is harassment.

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<sup>5</sup> NDP MPs have tried to introduce private member’s bills before the House of Commons to amend the Human Rights Code and the federal hate crimes legislation and specifically prohibit discrimination based on gender identity and gender expression. To date none has passed.

The stress of transitioning is compounded exponentially by workplace harassment and bullying.

Let's be clear – trans people may face real danger and their perception of this danger is likely profound and may even be debilitating. It is absolutely critical that the union and management take this seriously and be pro-active in support of the worker in transition. This requires checking at regular intervals with the worker, and making it clear to all workers and supervisors that neither the union nor the employer will tolerate any harassment. There is no doubt that if so-called “minor” remarks/innuendos/jokes/rumours are left unchecked, they will escalate into an intolerable and volatile situation.

#### **n) Co-workers, Clients/Public**

The employer and the union need to send a strong message to management, workers, clients and the public that they will not tolerate harassment, and that they value the contributions of all workers, including trans workers.

Workers who raise concerns about working with a trans co-worker or supervisor should be provided with information about the workplace non-discrimination and anti-harassment policies. They should be informed that they are required to work cooperatively with all employees, regardless of gender identity (or race, or sex, or religion, or disability, etc.), and if they fail to do so the harassment policy will take effect. Discomfort is not a legitimate rationale for harassment!

Employers will sometimes try to move transitioning workers away from their usual job working with the public. Transitioning workers have a right to remain in their regular job. Decisions in human rights cases make it clear that customer preference cannot be used to support discriminatory practices.

#### **o) On the Job**

All parties must work together to ensure that the worker can remain at the worksite in their present job. However, if the re-integration of the

worker back into their work unit is too difficult from the worker's point of view, then the employer, the union and the worker need to negotiate an alternative arrangement. This would include but not be limited to positions elsewhere within the company, with preference to remaining in the same job classification. The employer and the union would need to continuously monitor the work environment through contact with the worker to ensure that the alternative plan is successful. Where an alternative involves seniority, the union should approach this as we would any accommodation issue.

#### **p) Overall Workplace Changes**

The duty to accommodate puts a proactive responsibility on employers to design their workplaces with the broadest possible workforce in mind. To that end, employers should create single-use washroom and change room facilities. Uniforms and uniform policies should be flexible enough to accommodate worker's choice, where 'gendered' uniforms exist.

# Guidelines for Management/Union Representatives

Your support is critical. You can maintain this worker's privacy, protect their dignity, ensure their safety and demand the same of others. Your actions will have an impact on the outcome of the transition.

You may feel you don't know enough about trans issues to be of much help – but the trans member who needs your support is probably your best resource. Listen when they talk, and let them educate you if they wish to. You don't need to know a lot about transsexuality – but you do need to learn how to best support someone through transition. Rely on basic union principles about dignity, safety, and equal treatment, and you'll do fine. Resources and suggestions for further reading are in this document.

Begin using the worker's new name and the right pronoun as soon as you are asked to. This is how you indicate your solidarity. It could be considered harassment if no attempt is being made to adapt<sup>6</sup>.

Perhaps one of the most offensive and dehumanizing terms used is "it". You need to show leadership in ensuring that the worker is always referred to by their correct name and correct pronoun, and interrupt inappropriate/hurtful language when you hear it.

*'Changing how we refer to an individual once they come out is very important to a respectful workplace. People at my workplace really don't get this. To this day, I am continually correcting people. For those I have corrected over and over again, I have had to resort to pointing out to them that it is harassment for which they can be disciplined.'*

*Experienced Union Rep*

While it may be that friends and co-workers sometimes make mistakes and use the wrong pronoun, or the worker's old name, it is critical that the trans person understand – through the language of those

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<sup>6</sup> Interestingly enough, people are generally not resistant to name changes due to marriage or divorce...

surrounding them – that they are being supported in the most courageous and necessary act of their lives.

If you know, or learn, that someone has transitioned in the past, you have no right to disclose this to anyone or to ask the individual worker about it. It's past.

If at some point you are struggling with someone's physical/personal appearance or style as they transition, keep it to yourself. Be compassionate – they are likely displaying more courage than most of us ever will in a lifetime.

## Check List for Transition Plan Meeting:

- Acknowledge how difficult the decision to talk to you must have been.
- Reassure them that you will maintain confidentiality. Do so.
- Let them know you're there to help, and that you need their suggestions on what will be most helpful.
- Ask them when/if they want to tell their manager/supervisor/HR person, or if they want you to, or if they want you there as support.
- Talk to them about the timing for this process.
- Ask them if they expect to change their name. If yes, learn their name and ask them when they want you to begin referring to them by their new name and/or pronoun.
- Ask if they anticipate needing time off for treatment, and if they can give an indication of when and for how long it might be. Make sure they know that normal sick leave provisions will apply.
- Offer to go over the benefit plan with them if they need information about coverage.
- If there's a uniform policy or dress code, talk with them about how and when they want to handle it.
- Ask about their needs regarding washrooms and change rooms, and ensure they know they have your support in using the facilities consistent with their gender identity.
- Let them know that you will do everything you can to ensure they can continue doing their current job, if that is their wish, and that they have a right to it.
- Be prepared to discuss alternative work shifts, locations, etc., if the worker wants to move to a new area and start 'fresh' at some point during transition.

- Talk with them about any ideas they might have about a general workplace anti-harassment education plan.
- Follow up on anything you have agreed to do.
- Check in with them regularly, be proactive for signs of trouble from supervisors/co-workers.

# If You're the One Transitioning on the Job

The decision to transition on the job takes courage. Your union is there to protect your dignity and safety. Your union reps may not know everything they need to know about transition, but they do know how to represent workers who need support<sup>7</sup>.

- Meet with management and union rep/advocate/committee person who you feel comfortable with to begin the process. If you want, bring a friend.
- Explain that you need a transition plan.
- Outline your plans and how you want to see your transition evolve in the workplace.
- Be as clear as you can be about your timelines.
- Outline your concerns.
- Tell them what your needs are.
- Let them know what action you expect from them, and outline what kind of support would be most helpful to you.
- Let them know what they can expect from you in terms of changing gender expression (e.g. when you will begin wearing the opposite sex uniform/begin dressing according to gender, etc.), and what your timing is for this.
- Settle on a contact person from management and the union.
- Talk together about options if you encounter difficulties in your current job/location.
- Go over any benefit/leave of absence questions you have.

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<sup>7</sup> If you experience difficulties with a local union rep, contact another union representative, committee member (e.g. human rights, women's), or central union staff representative to get the support that you need.

- You do not need to answer any intimate personal questions. Let people know if they cross the line.
- Reinforce your right to privacy and confidentiality.

**As you transition:**

- Immediately identify any harassment you are experiencing. It is critical that management and the union stop it before it snowballs.
- If washroom/changeroom facilities are inadequate bring this to the attention of your key contacts. Let them know specifically what the problem is and how you want it remedied.
- Continue to provide valid/current medical certification as per the requirements of the Collective Agreement, prior to return to work after sick leave period, etc.
- Try to keep your focus on the job. Work out a strategy with your key contacts for getting some relief if things get difficult during the first few weeks.
- Use your best judgement – you will need to be patient with people as they adjust to using your new name and gender, while at the same time recognizing when someone is being wilfully ‘forgetful’.
- Expect respect. Your courage and dignity will be a model for others.

# Trans Issues and the Law

*The law is clear: It is illegal to discriminate against trans people.*

## a) Employer Obligations

### **Employers:**

- ✓ are not permitted to discriminate on the basis of gender identity or expression in hiring, training or promoting trans workers;
- ✓ cannot fire trans employees because they transition or come out (i.e. let people know that they're trans);
- ✓ must give trans workers access to appropriate washrooms, uniforms, dress code, etc. during and after transition;
- ✓ uphold privacy, confidentiality and dignity of the worker;
- ✓ need to cooperate and change records for pension coverage, medical and health plans, EI, CPP etc., to reflect trans workers' new gender identity;
- ✓ cannot deny access to private health care benefits to trans workers that are available to other members with other medical needs (i.e. if wigs are covered for cancer patients, then they should be covered for trans people who require them, also for medical reasons);
- ✓ must consult and collaborate with union representatives;
- ✓ have the primary, legal responsibility to accommodate a worker up to the point of undue hardship.

## **b) Union Obligations**

### **Unions:**

- ✓ have a duty to represent all union members fairly;
- ✓ work with the worker and the employer where an accommodation is required;
- ✓ defend workers whose rights are threatened or ignored;
- ✓ operate in a manner that is free from discrimination and harassment;
- ✓ have a responsibility to enforce the employer's obligation to prevent harassment in the workplace and to defend workers who are subject to harassment;
- ✓ respect privacy and confidentiality of members;
- ✓ provide (and ensure the employer provides) education about equality issues, anti-harassment and the duty to accommodate.

## **c) Worker Obligations:**

- ✓ to communicate with the union and the employer;
- ✓ to supply job-relevant medical information;
- ✓ to be cooperative and assist in identifying and implementing an appropriate accommodation, if required;

# Legal Decisions on Trans Issues

## ***Ferris v. Office and Technical Employees Union, Local 15 (1999) 36 CHRR D/329 (BC Human Rights Tribunal)***

A human rights complaint was made by Leslie Ferris regarding her treatment as a transsexual at work. In particular her complaint was about the union's handling of a complaint about her use of the women's washroom. The BC Human Rights Tribunal found the union did not adequately represent Ms. Ferris and ordered the Union to pay damages including \$5,000 for injury to Ms. Ferris's dignity.

Ms. Ferris is a trans woman with 20 years service at her place of employment. She had not had genital surgery at the time of the human rights complaint. A complaint was made by a co-worker about "a man using the women's washroom". The union failed to consult with Ms. Ferris and failed to properly investigate the situation.

At the hearing into her Human Rights Complaint, Ms. Ferris's doctor testified about the impact on a trans woman of being challenged as not truly a woman. She said that such challenges are distressing. They lead to feelings of humiliation and shame, as well as anger. They are embarrassing.

In the doctor's view, it is best to try to discuss issues that arise about transsexual people in the workplace in an open and honest manner, not in a confrontational way. Often, the misunderstanding of co-workers and employers is based on fear and ignorance.

The Tribunal accepted that transgendered people are particularly vulnerable to discrimination. They often bear the brunt of our society's misunderstanding and ignorance about gender identity. In the context of the workplace, washroom use issues are often contentious and, in the absence of knowledge, sensitivity and respect for all concerned can inflict a great deal of emotional harm on the transgendered person.

The Tribunal held that the union simply acquiesced in the Company's treatment of the anonymous complaint as legitimate, and its implicit characterization of the Complainant as a problem who required some accommodation. The union's unexplained inability to properly consult with Ms. Ferris resulted in considerable damage to her health, finances, dignity and self-esteem.

The union's failure to properly deal with the washroom complaint was a breach of the Code and resulted in an order against the Union.

***M.L. and Commission des droits de la personne et des droits de la jeunesse du Quebec v. Maison des jeunes (1998) 33 CHRR D/623 (Trib. Que.)***

M.L. was hired as a street help worker by the Maison des jeunes under an initial 4 month contract. Following a positive evaluation of her work, she was hired for a longer contract. M.L. was in the process of transition from male to female at the time of these contracts. She had been living for several months as a woman in all aspects of her daily life and had been using a female first name, except at work. Near the end of her second contract, she informed her employer about her transition. Shortly after, the employer advised ML that her contract was terminated and did not offer M.L. any other position.

The Tribunal declared that the protected ground of "sex" in section 10 of Quebec's Charter of Human Rights and Freedoms includes the transition from one sex to another and found that the dismissal and refusal to rehire were based on M.L.'s trans status. It awarded M.L. damages.

***Sheridan v. Sanctuary Investments Ltd. (1999) 33 CHRR D/467 (B.C. Human Rights Tribunal)***

Ms. Sheridan, who identified as a pre-operative trans woman, filed a complaint with the BC Human Rights Commission concerning a nightclub's refusal to allow her to use the women's washroom. The Human Rights Tribunal found this refusal to be discriminatory and ordered the nightclub to allow transwomen to use the women's washroom. Dr. Robinow testified that during transition the person is considered to be in the desired sex rather than the physical sex assigned at birth. Part of living in the role of the desired sex is using the washroom of that sex. Dr. Robinow considered use of the appropriate washroom "significant" and said that being prevented from doing so was a "source of distress" for transsexuals.

***Montreuil v. National Bank of Canada (Canadian Human Rights Tribunal) Feb. 5, 2004***

The Canadian Human Right Tribunal upheld a complaint by Micheline Montreuil, a MTF transsexual. Ms. Montreuil has not gone through sex reassignment surgery and has no intention to in the future. Notwithstanding this, the Tribunal found that the National Bank of Canada discriminated on the basis of sex when its decision not to hire her was influenced by their perception that Montreuil would use her position to crusade for trans rights.

***Kimberly Nixon v. Vancouver Rape Relief Society (2006) S.C.C.A. No. 365***

On February 1, 2007 the Supreme Court of Canada denied Kimberly Nixon's leave to appeal application ending her 12 year case against Vancouver's Rape Relief Society. Ms. Nixon, a trans woman, was rejected from volunteer training for peer counselling services provided by the Vancouver Rape Relief Society. She filed a human rights complaint. That Court

stated that the behaviour of the Society met the test of discrimination; however, it was exempted by s.41 of the Human Rights Code. That section allows charitable or social organizations to grant preference to an identifiable group of people. In this case, the Society only took peer counsellors from women who were born women and raised as women. It is noteworthy that the earlier Court said that exclusion from the volunteer training session was “quite a different case from being excluded from a restaurant because of her trans characteristics. Unlike a for-profit business providing services or recruiting employees from the general public or a volunteer organization open to all, Rape Relief defined itself as a women-only organization and defined that group as women who had been born women.”

This decision is regarded as a set-back for trans people. Its impact will be limited however, because of the specific situation applying to social and charitable organizations under BC human rights legislation.

***Hogan, Stonehouse, AB and McDonald v. Her Majesty the Queen in Right of Ontario As represented by the Minister of Health and Long-Term Care 2006 HRTO 32***

In 2006, Ontario’s Human Rights Tribunal ruled in favour of three trans people who fought the de-listing of sex reassignment surgeries from OHIP, Ontario’s public health insurance programme. The complainants were in the process of transitioning when SRS was de-listed. The ruling confirms that gender identity is a protected ground under “sex” and “disability” where relevant. The government was found to have breached the complainant’s human rights by not continuing to cover those who had begun the process before delisting. However, the Tribunal did not compel the government to re-list SRS. The labour movement joined with trans activists to call for the re-listing of SRS. In May 2008, the Ontario government finally relisted SRS.

***A.B. v. Minister of Transportation and Minister of Government Services (Settlement, H.R.T.O. 2006)***

A settlement was reached in a complaint about changing the sex designation on a driver's licence and birth certificate, before having sex reassignment surgery. The Ministry of Transportation had a practice (but not a written policy) whereby it would only change the sex designation on a driver's licence after a person had surgery.

With respect to changing the sex designation on a birth certificate, the Vital Statistics Act requires that a person have "transsexual surgery" in order to get the designation changed. There is no definition of "transsexual surgery" in the Act. Historically, the Ministry (now called Government Services) assumed that the required surgery was genital sex reassignment surgery.

As a result of this settlement, the Ministry of Transportation will now change the sex designation on a driver's licence if a physician provides a letter advising that the physician has treated or examined the person and in the practitioner's opinion the change on the licence would be appropriate. The Ministry also agreed to review the Vital Statistics Act.

# Collective Agreement Model Language and Bargaining Demands

*Clear collective agreement language will provide the best protection for workers transitioning on the job. Negotiating language on trans workers also allows the union to educate our members before anyone transitions at work and helps prepare a more open and accepting workplace.*

## **Non-discrimination clause:**

Add “Gender Identity” and “Gender Expression” to prohibited grounds of discrimination and harassment language.

## **General Transition Policy:**

The "Union" and \_\_\_\_\_ agree to the following general transition policy to cover transsexual employees at work.

\_\_\_\_\_ and the "Union" will make every effort to protect the privacy and safety of transitioning workers during and post-transition.

Upon request by an employee, \_\_\_\_\_ will update all employee records and directories to reflect the employee’s name and gender change, and ensure that all workplace-related documents are also amended. This may include name tags, employee IDs, email addresses, organizational charts, health care coverage and schedules. No records of the employee’s previous name, sex, or transition will be maintained post-transition, unless required by law.

\_\_\_\_\_ will provide safe washroom and change room facilities to a worker during and after transition. \_\_\_\_\_ and the "Union" recognizes that a transitioning worker has the right to use the washroom of their lived gender, regardless of whether or not they have sought or completed surgeries.

Health care benefit coverage for transition-related costs, and medical leaves of absence for transitioning employees, will be provided / accommodated on the same terms as any other medical cost or leave.

[Insert any other policies applicable to transitioning employees in the workplace – e.g. gender specific positions, dress codes]

Upon notification by an employee wishing to transition, or at the request of the union, \_\_\_\_\_ will work with the union and the employee to tailor the general transition plan to the employee’s particular needs.

### **Group Benefit Plan:**

\_\_\_\_\_ will put in place a group benefit plan with coverage for the costs of sex re-assignment surgeries, not covered by provincial health plans. In addition, \_\_\_\_\_ will include coverage for any transition-related expenses, not already covered under the benefit plan (for example: wigs, electrolysis, breast prosthesis, hormone therapy, silicon/saline implants, special bras for prosthesis, voice classes, counselling, medical-related travel expenses, etc.).

### **Transition Leave**

\_\_\_\_\_ will grant an employee up to \_\_\_ weeks of leave with pay for medical procedures required during the transition period.

# Trans Issues Beyond the Workplace

It is illegal to discriminate against trans people in Canada, and yet trans people experience daily acts of discrimination in the community.

Derogatory comments, refusal of medical care, denial of services, verbal and physical harassment, violent assault - are all examples of the kinds of direct and indirect discrimination encountered by trans people.

Trans people are regularly denied access to housing and services and/or are subject to ridicule by service providers and other clients.

Medical issues include: denial of medical treatment - even for non-transgender related illnesses; ridicule and mistreatment by providers; lack of access to ongoing, routine medical care; no coverage for medical procedures required for transitioning.

Trans people face legal issues where their legal status as a man or a woman is at issue: in marriage and divorce, adoption and child custody, security clearance, immigration and so on.

Our human rights laws need to be more specific in protecting trans people. The term "gender identity" is so far only included in the Northwest Territories' human rights legislation. Although several legal cases across Canada have confirmed that the protection against discrimination on the basis of sex includes protection for trans individuals, unions have joined the call to have gender identity and gender expression spelled out explicitly as prohibited grounds in the human rights acts federally, provincially and territorially and in federal hate crimes legislation, to acknowledge discrimination and violence faced by the trans community.

Unions play a very important role in helping to shape public opinion, in lobbying governments and in working with social justice groups. We are in the leadership of the women's movement, the movements to defend health care and social services, the fight for equality for lesbian and gay citizens among others. Our movement can use the skills and knowledge we have developed in these campaigns to help further the struggle of trans people for equality and dignity.

## **Transgender Day of Remembrance**

On November 20<sup>th</sup> trans communities and allies solemnly observe an annual Transgender Day of Remembrance. Remembered at events internationally are those who have lost their lives to anti-transgender violence.

Transgender people are the subject of violent hate crimes around the world. In the US, "...although anti-transgender violence accounted for only about 2-4% of all reported incidents, those incidents accounted for approximately 20% of all reported anti-LGBT murders, and approximately 40% of the total incidents of police-initiated violence" (National Gay and Lesbian Task Force). Anti-trans violence is prevalent and vicious.

Most of the people who are listed by the Remembering Our Dead Project were street active and low income, very often people of colour, very often sex workers. The vast majority were MTF. Transphobic violence, in combination with other social conditions - like poverty, racism, sexism - has led to most of the deaths suffered by trans people.

The Remembering Our Dead Project has documented over two-hundred-ninety-seven transgender individuals killed from anti-transgender bias and violence since the project began recording the homicides. Twenty-one names were added to the list in one twelve month period alone.

# Union Action on Trans Issues

Unions have a responsibility to defend all members on the job. The collective agreement is one critical tool. Enforcing the collective agreement and defending trans workers makes the tool effective.

- ✓ Add the words “gender identity” and “gender expression” to our non-discrimination and anti-harassment language.
- ✓ Negotiate benefit coverage for the medical treatments required for transition. Trans people are not only being denied public health care for transition related expenses, but they are sometimes denied access to private health care benefits that are available to other members.
- ✓ Ensure that all information collected on employees is held in confidence. This is especially important for transgender workers who do not want to be out at work.
- ✓ Negotiate anti-harassment training that includes harassment based on gender identity as well as homophobia. And, we need to make it clear to employers that the union will challenge any attempts to discriminate against trans workers.<sup>8</sup>
- ✓ Negotiate Transition Plans that include transition leave, benefit coverage, and plans for transitioning on the job.<sup>9</sup>
- ✓ Enforce the employer’s duty to accommodate.

Let our trans members know that their contribution to the union is important and we want their voices heard.

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<sup>8</sup>The British Columbia Human Rights Tribunal found that a union discriminated against a transsexual member by failing to properly represent her. The Tribunal ordered the union to pay her \$5,000 for injury to dignity, plus lost wages.

<sup>9</sup> At York University, the CUPE local representing teaching assistants and part-time faculty recently negotiated ground-breaking language on Transsexual Transition Leave.

- ✓ Include trans issues with other human rights issues the union supports.
- ✓ Include trans workers in union committees, including (but not limited to!) the human rights committee.
- ✓ Publicize the union's support of the rights of trans workers among the membership.
- ✓ Provide human rights training – including issues facing trans workers – for executive members and stewards.
- ✓ Provide appropriate washroom facilities (e.g. single-occupancy) at union events.
- ✓ Include transgender workers' issues in steward training, collective bargaining, human rights courses etc. at the local level and throughout the union.
- ✓ Provide educational sessions for members and union reps.
- ✓ Report on the political battles for trans equality rights in the union newsletter.
- ✓ Publish the union's anti-discriminatory positions and news about the actions the union takes to fight discrimination.

**Action for individuals:**

- ✓ Educate yourself, and listen: Transgender people can tell you what kind of support is most useful.
- ✓ Talk with your bargaining committee about how we can better represent our trans members.
- ✓ Learn more – check out the Resources listed in this document.
- ✓ Support a trans member in your workplace.

- ✓ Stop the harassment – don't be a bystander when offensive jokes, innuendos, or harassment take place.

**Try putting your discomfort on hold for a while,  
and see if it doesn't dissipate over time.  
We're all just people and we are all different in different ways.**

## Some Definitions

**Trans (or transgender)** - is used as an “umbrella” term to describe a wide range of identities and experiences, including - but not limited to - pre-operative, post-operative, and non-operative transsexual people; male and female cross-dressers (sometimes referred to as “transvestites,” “drag queens” or “drag kings”); intersex individuals; and men and women, regardless of sexual orientation, whose appearance or characteristics are perceived to be gender atypical.

**“It should be noted that each of these groups has distinct issues in relation to discrimination in society... The term ‘transgender’ is, in effect, a form of shorthand that refers to a wide range of people and experiences. However, it is important not to allow the use of a single term to imply that their needs are identical or that their human rights issues are all the same.”**

*Ontario Human Rights Commission “Toward a Commission Policy on Gender Identity, Discussion Paper.  
October 1999*

**Transphobia** - is the unrealistic or irrational fear and hatred of cross-dressers, transsexuals and transgender people. Like all prejudices, it is based on negative stereotypes and misconceptions that are then used to justify and support hatred, discrimination, harassment and violence toward trans people.

**Transsexual** - someone whose gender identity is not the same as their birth biological sex (see below for definitions of biological sex and gender identity). Trans people may, through surgeries and hormone treatments, transition male to female or female to male. While there are no accurate statistics, it is estimated that 1 in 11,900 males and 1 in 30,400 females identify as transsexual. These stats likely under-represent the number of transsexual individuals, since so many keep their identities secret.

**Biological sex** - includes external genitalia, internal reproductive structures, chromosomes, hormone levels, and secondary sex characteristics (for example, breasts, facial and body hair). These characteristics are objective: they can be seen and measured.

Surprising to some, the scale consists not just of two categories (male and female) but is actually a continuum. Most people exist somewhere near one end or the other. The space more in the middle is occupied by intersex people (formerly called hermaphrodites) and transsexuals who are in the process of sex re-assignment.

**Gender identity** - is how people think of themselves and identify in terms of sex (man, woman, boy, girl). Gender identity is a psychological quality. Unlike biological sex, it can't be observed or measured, only reported by the individual.

**Gender expression** - is everything that we do to communicate our sex/gender to others. For example, the type of clothing we wear, our hair styles, mannerisms, the way we speak, the roles we take in interactions, etc.

Gender expression is a continuum, with feminine at one end and masculine at the other. In between are gender expressions that are androgynous (neither masculine nor feminine) and those that combine elements of the two (sometimes called gender bending).

Sometimes we communicate our gender expression purposefully, sometimes it's accidental. Our gender expression could be forced on us as children, or by dress codes at school or at work.

Gender expression can vary for an individual from day to day or in different situations, but most people can identify a range on the scale where they feel the most comfortable. Some people inhabit a wider range of gender expression than others.

**Sexual orientation** - indicates who we are erotically attracted to / want to be intimate with. We tend to think of most people as being either solely attracted to men, or solely attracted to women (whether they are gay or straight). However, studies show that most people are in fact not at one extreme of this continuum or the other, but occupy some position in between (bisexual).

Some people wrongly assume that you can tell someone's sexual orientation by their gender expression (i.e. women who act and dress in androgynous ways must be lesbians, men who are comfortable with what's considered feminine must be gay, etc.) – you can't.

While “sexual orientation” refers to whether a person is attracted to men, women or both, gender identity concerns a person's internal sense of being male or female. A transgender person is not comfortable with or rejects their biologically and socially assigned gender identity. A transgender person may be gay, lesbian, bisexual or heterosexual; there is no direct connection between gender identity and sexual orientation.

**MTF/FTM (male to female/female to male)** - This is the short-form indicating transition – MTF is someone who was born male and is transitioning to female. FTM is someone who was born female and is transitioning to male.

**Transition** - is the process of changing sex, including hormones, cross living (living according to gender identity, not biology), and surgery. A practical minimum duration for this process is about two years but it is not unusual for it to take longer.

**Sex reassignment surgeries** - refer to medical procedures by which an individual is surgically altered to create the physical appearance of the opposite sex. Approximately 1 in 30,000 adult men and 1 in 100,000 adult women seek sex reassignment surgery. Not all trans people seek surgery.

**Intersex** - People born with combinations of characteristics typical of males and those typical of females, such as both a testis and an ovary, or XY chromosomes (the usual male pattern) and a vagina. They may have features that are not completely male or completely female. One in 2000 babies are considered intersex. Intersex replaces the term 'hermaphrodite'.

**Transvestite** - Someone who dresses in the clothing of the opposite sex.

**Two-spirited** - Term used in some Aboriginal communities to describe gay men, lesbians, bisexuals and trans people (as in 3rd gender people).

# Resources

***To Our Allies: Everything You Ever Wanted to Know about Lesbian, Gay, Bisexual and Trans Issues... well, maybe not everything.*** This booklet was produced by the CLC to be distributed to local union leadership, activists and members. To order multiple copies contact the CLC at (613) 521-3400 or email [womens-hrights@clc-ctc.ca](mailto:womens-hrights@clc-ctc.ca).

## Transgender Organizations

- ◆ [www.AlbertaTrans.org](http://www.AlbertaTrans.org) (includes an incredible list of trans organizations and resources)
- ◆ Trans/Action c/o 620-1033 Davie Street, Vancouver, BC V6E 1M7  
[www.barbarfindlay.com](http://www.barbarfindlay.com)
- ◆ EGALE Canada, [www.egale.ca](http://www.egale.ca)
- ◆ Association des transsexuels et transsexuelles du Quebec (ATQ), CP 476, Succ C, Montreal, QC, H2L 4K4 [www.atq1980.org](http://www.atq1980.org)
- ◆ Center for Gender Sanity, PO Box 451427, Westchester CA 90045  
[www.gendersanity.com](http://www.gendersanity.com)
- ◆ FTM International, 5337 College Avenue #142, Oakland CA 94618  
[www.ftmi.org](http://www.ftmi.org)
- ◆ The International Foundation for Gender Education, P.O. Box 540229, Waltham, MA 02454 [www.ifge.org](http://www.ifge.org)
- ◆ Intersex Society of North America (ISNA), 979 Golf Course Drive #282, Rohnert Park, CA 94928 [www.isna.org](http://www.isna.org)

## Reports

- ◆ *Trans Issues for the Labour Movement*, Canadian Labour Congress, 2841 Riverside Drive, Ottawa, ON K1V 8X7, available under “pride” on the CLC website at: [www.canadianlabour.ca](http://www.canadianlabour.ca)

- ◆ *Finding Our Place: Transgendered Law Reform Project*, sponsored by The Law Foundation of British Columbia; prepared for High Risk Project Society, 449 East Hastings Street, Vancouver BC V6A 1P5.
- ◆ *Systems Failure: A Report on the Experiences of Sexual Minorities in Ontario's Health Care and Social Services Systems*, Coalition for Lesbian and Gay Rights in Ontario, Box 822, Station A, Toronto M4W 1G3.
- ◆ *TransBiography Project, Stories from the Lives of Eleven Trans People in BC*, is meant to educate the broader community about the experiences, needs and situations of trans people. Copies can be obtained by contacting the Trans Alliance Society at [communications@transalliancesociety.org](mailto:communications@transalliancesociety.org) A \$10 donation is suggested.
- ◆ *Transgender Equality, A Handbook for Activists and Policymakers*, The Policy Institute of the National Gay and Lesbian Task Force, USA (121 West 27th Street, Suite 501, New York, NY 10001 [www.nglhf.org](http://www.nglhf.org))
- ◆ *Transgender Inclusion in the Workplace, Second Edition*, A Human Rights Campaign Foundation Report, 1640 Rhode Island Ave. NW, Washington, DC, 20036-3278 [www.hrc.org](http://www.hrc.org)

## **Movies/Films**

- ◆ *She's a Boy I Knew* (2007)
- ◆ *Cruel and Unusual* (2006)
- ◆ *Kinky Boots* (2005)
- ◆ *TransAmerica* (2005)
- ◆ *Yapping Out Loud: Contagious Thoughts of an Unrepentant Whore* (2002)
- ◆ *Some of the Stories: a Documentary about Trans Youth* (2001)
- ◆ *Almost Human* (2000)
- ◆ *Bruno* (2000)
- ◆ *Hedwig and the Angry Inch* (2000)
- ◆ *A Boy Named Sue* (2000);
- ◆ *In the Flesh, In the Heart, In the Mind* (NFB, 2000);

- ◆ Southern Comfort (2000);
- ◆ Transsexual Voyage (CBC, 2000);
- ◆ All About My Mother (1999)
- ◆ Boys Don't Cry (1999)
- ◆ Flawless (1999)
- ◆ Transgender Revolution (1998)
- ◆ Ma Vie En Rose (1997)
- ◆ Different for Girls (1996)
- ◆ The Birdcage (1996)
- ◆ Transsexual Menace (1996)
- ◆ You Don't Know Dick: Courageous Hearts of Transsexual Men (1996);
- ◆ Stonewall (1995);
- ◆ Wigstock, The Movie (1995)
- ◆ Adventures of Priscilla, Queen of the Desert (1994)
- ◆ Ed Wood (1994)
- ◆ Farewell My Concubine (1993)
- ◆ M. Butterfly (1993)
- ◆ Mrs. Doubtfire (1993)
- ◆ Orlando (1993)
- ◆ I Am My Own Woman (1992)
- ◆ Just Like a Woman (1992)
- ◆ The Crying Game (1992)
- ◆ All of Me (1990)
- ◆ Paris is Burning (1990)
- ◆ Torch Song Trilogy (1988)
- ◆ The Brandon Teena Story (1988)
- ◆ Second Serve (1986)
- ◆ Just One of the Guys (1985)
- ◆ Yentl (1983)
- ◆ Tootsie (1982)
- ◆ Victor/Victoria (1982)
- ◆ La Cage aux Folles (1978)
- ◆ Outrageous! (1977)
- ◆ Rocky Horror Picture Show (1975)
- ◆ The Christine Jorgenson Story (1970)

*(Thanks to the National Association of Women and the Law's "Trans Inclusion Policy Manual" and others for the video picks).*

# Sample Workplace Letter

Hi everyone....

My name is [Max] Some of you may remember me as [xxx]. On July 8, 2005 I had my 49th birthday and my rebirth as I started my journey to male with my first testosterone injection. I have these injections every two weeks. With this hormone my body will go through many changes, mostly positive with body changes, facial hair, body hair, and muscle growth.

Unfortunately with the positive comes the negative. I do experience a few growing pains as the muscles and tendons expand and grow, which can be very painful at times, also migraines, bouts of depression and hot flashes now and then, but in the end it will be all worth it..

For once in my life I feel complete as a person. The outside package is matching up with my internal feelings. All my life felt I was male inside, but the outside package did not match up with how I felt inside. I have always been a “tomboy” and was the son my father never had. I always knew my inner child inside was a male and now I am making myself complete.

I have never been happier than I am now. I am a transgender female to male. I have lived with “gender identity disorder”; this is when someone feels that their internal identity does not match their body, a male trapped in a female body or female trapped in male body.

Someone does not make this decision over night. It takes years of therapy, and living the life of the person you feel you are. I have lived the life of a male for many years and undergone counseling and still do.

Many transgender men and women undergo SRS (sexual reassignment surgery). These are very expensive operations and not usually covered by our medical plans. Due to the expense many are unable to complete their transition and live in a state of incompleteness. Many are happy to be able to represent in public the person they want to be (to pass as male or female) without derogatory remarks, harassment or threats of violence

towards them. Nothing will please me more than to have my body match my internal dreams and wishes. I am more than willing to answer any questions anyone may have regarding my transitioning after all this is a learning experience for all of us. I thank you all for all your positive support for me during my process.

One last note: just because my outside package is changing does not mean I am not the same person I was before. I am still the kind, generous, supportive person I was before. I am still that Gentle Giant. And again if anyone has any questions about my transitioning please feel free to ask me, and I will try to answer them as best I can.

Yours truly,

Max

# **My Daughter, My Son, Myself,**

*It would seem that the daughter we'd often joked was the son we'd never had, was really the son we'd always had.*

*By J. WILEY*

*Globe and Mail, Wednesday August 23, 2006.*

At this year's Toronto Pride Parade, I searched in vain for a young man who last year stole my heart and redirected my life.

A year ago, I marched in the parade with the St. Catharines, Ont., chapter of PFLAG (formerly known as Parents, Families and Friends of Lesbians and Gays), the first time I had participated in or even attended this empowering international festival of sexual and gender diversity. We members of PFLAG, easy to spot with our sensible footwear and clothing, wearing sun-hats, provided an amusing contrast to many of the parade onlookers and participants, especially the spirited delegates from TNT (Totally Nude Toronto) dangling their participles a few units behind us.

The life path that took me to this in-your-face street party was one that I never would have imagined almost three years earlier. But at that time, our firstborn child, whom we had loved as a daughter for 18 years, gathered up astonishing courage to disclose that he'd believed since pre-school that he was male.

It would seem that this daughter, whom we'd often joked was the son we'd never had, was really the son we'd always had.

Our son's exit from his closet changed nothing. And it changed everything.

Our love for him was undiminished, but our memories were ambushed.

The photos and family portraits of this blond, blue-eyed child provided no "clues" to our son's new (to us) identity. Even the recollection of our obstetrician's first words -- "Congratulations, you have a girl!" -- were difficult to reconcile.

For months after our son's revelation, I was yanked between elation and grief. One day I'd be crowing "My child is finally happy! Now it all makes sense!" and the next day I'd be sobbing over the "death" of my daughter.

In those early days, our son was the only "trans" person we knew. We were acquainted with no other parents walking this walk. A thorough search of our local library yielded zero copies of Trans-parenting for Dummies.

And as loving and supportive as they were, members of the local PFLAG chapter admitted they couldn't fully identify with our situation.

Where were all of the other trans parents? Guilt and shame were added to the emotional maelstrom when I concluded that other parents were stronger and clearly not in need of support.

We gained our strength from neighbours, friends and many family members who were overwhelmingly supportive when told of our new dynamics. Members of our Unitarian congregation applauded when we told them our news.

I told these open-hearted folks that I was experiencing the same feelings I'd had when I was pregnant with my son: anticipation, wonder, excitement, anxiety, curiosity. I even had stretch marks, but this time they were all in my headspace as I broadened and deepened my understanding of what it meant to be fully human.

However, some people were horrified. With an outrage born of religious zeal, they vowed to never accept our "abomination" son. (Their reaction raised the question: WWJH? -- Who Would Jesus Hate?) Our son and his younger sister learned the hard way that proclamations of unconditional love are not always what they seem.

That jolt of intolerance awakened my inner angry mama-bear. It distressed me that some people were so fixated with the plumbing below the belt that they ignored the human heart beating in my child's chest.

The idea of forming a support group for the parents of trans children began to wriggle its way into my brain. Perhaps the reason I hadn't met

other parents was because they felt the same shame, disgust and embarrassment that some of our relatives did. Were they as uninformed about trans issues as I was? Were they held captive in their own closets by fear and because they had no one to whom to turn?

But I'm ashamed to say that the idea of a support group waned over time. Our family had survived -- let others deal with their own problems.

And that's when I met the thief of my heart at last year's Toronto Pride Parade.

The young man grinned and waved when he saw my hand-lettered neon sign -- "I Love My Trans Son" -- and started jabbing his finger into his chest, indicating that he too, was someone's trans son. I waded into the crowd, sign and all, to give this stranger a hug.

We embraced for a very long time, and then he whispered: "I wish my mom had been as understanding as you."

The aching sadness and loss in his voice was undeniable, and my heart splintered. By the end of the parade, I'd resolved to form TransParent, a peer support network to unite the parents of trans children so that together we may share and celebrate our children's journeys to authenticity.

I had hoped to see my friend at this year's parade, to embrace him once again and to tell him that with the love and encouragement of a multitude of people, TransParent is growing and evolving.

I'm already looking forward to next year's parade. With commitment and determination, we'll achieve full equality, dignity and justice for our Pride children in the same way we'll finish the celebratory event -- with heads held high, one step at a time.

J. Wiley lives in Ontario's Niagara Peninsula.

# Sample Transition Plan

## Objectives:

- ◆ For the employee to remain at their current location as a (job classification).
- ◆ For the union, employees and (employer name) to ensure that (name of transitioning employee) continues to enjoy all the same rights with respect to the collective agreement between (employer name) and (union name) while performing their duties.
- ◆ To accommodate the employee in another position in the company should re-integration into the current work site become too difficult from the transitioning worker's point of view.

## Achieving these objectives:

Since the first priority is for (employee name) to remain at their current work location, the following initiatives need to take place.

(The timing will be adjusted according to any leaves of absences, which are currently scheduled from (insert dates). This plan will be based on these timelines but with the flexibility to adjust as necessary.)

Educating the management team is the first priority in this exercise so that they will be able to address any concerns or take immediate action should there be any inappropriate conduct. Equally important will be a partnership with the union at the (regional or national level/insert as appropriate) and the (insert as appropriate) at the location to work together with the site manager and management team to address these objectives.

Thus far knowledge of this situation has been limited to (insert as appropriate): VP Operations, "Union" National Representative, VP Human Resources, Assistant VP Labour Relations, Labour Relations Advisor, etc.

Advising others must be done in a manner which respects the employee's privacy and only on a need-to-know basis for the purposes of achieving our objectives.

### **Specific initiatives:**

- ▶ Reading material regarding transgender and MTF individuals as well as presentations by subject matter experts in the area.
- ▶ Presentations to management team and union representatives on (insert date).
- ▶ Design of education plan for employees at site to be determined by management and union in consultation with the employee. Timing to be discussed with employee.
- ▶ Education of other employees who are in regular contact with the site will be designed and delivered as appropriate.
- ▶ Review of human rights training and human rights legislation and how it applies to this situation may also be appropriate for the immediate staff.

### **Duty to Accommodate:**

- ▶ All parties must work together to ensure that the employee can remain in their workplace in their current job.
- ▶ Continuous monitoring of the work environment through contact with the employee should ensure that accommodation is successful.
- ▶ After a reasonable period of time, should the re-integration of the employee back into the work unit prove to be too difficult in the view of the employee, the employer and the bargaining unit agent, together with the employee, should look at other options. This would include but is not limited to positions elsewhere in the company with the preference to remain in the employee's current classification.

## Going Forward:

- ▶ Identify key personnel for management and union contact for employee and to ensure consistency during integration back into the workplace.
- ▶ (Employer contact) to serve as HR contact throughout transition and integration back into the workplace.
- ▶ Employee to identify any concerns immediately to manager, labour relations advisor or union representatives as necessary.
- ▶ Labour Relations and Employee Relations to provide support to management team and employee as necessary.
- ▶ Employee to ensure that medical documentation remains valid as per the health plan and Collective Agreement requirements, prior to return to work after sick leave period.

SG:gna\*

Revised on March 18, 2009

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