

## Five Suggestions to Create a Transgender-Inclusive Workplace

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To get ahead of the curve, employers should start adopting more inclusive policies aimed at accommodating transgender employees. To date, [19 states and the District of Columbia](#) have adopted laws prohibiting discrimination in employment and public accommodations based on both gender identity and sexual orientation (another three states only prohibit discrimination based on sexual orientation). As we have [previously reported](#), federal contractors are prohibited from discriminating against employers based on gender identity or sexual orientation. The EEOC has also sued private employers for [Title VII discrimination](#) based on sex when an employer fired a transgender employee. Even Congress [has recently considered](#) Title VII-like protections for employees based on their gender identity or expression. The trend toward protecting workers and others based on their gender identity is gaining momentum, and employers should be paying close attention.



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To be proactive, employers should start thinking of ways to create a work environment where employees feel safe, welcome, and valued. Because employees may be in the process of transitioning without informing their employers, or because an employee may present as their identified gender without advance notice, it is important to maintain open communications with employees regarding non-discrimination and accommodations for transgender individuals.

Below are five ways to start encouraging a more communicative and inclusive environment in the workplace:

1. **Employment Policies:** Draft employment policy sections specifically addressing transgender employees. Employees who are not transitioning may be unaware of what transitioning entails and what constitutes discrimination. For example, it may be considered harassment should an employee repeatedly refer to a transgender employee by the wrong pronoun.
2. **Medical Leave:** Be aware that the FMLA covers employees who take medical leave for transition-related needs for themselves or a family member. Never ask a transitioning employee for a medical record to prove the employee is, in fact, transitioning.
3. **Health Benefits:** Outline the benefits available for transitioning employees and their spouses. Even after transitioning, the status of an employee's marriage and parental status does not change and the transitioning employee's spouse and dependents are still covered by insurance.
4. **Hiring Policy:** When hiring an individual, ask for previous names in a nonjudgmental way. Beware of unconscious biases such as placing a transitioning employee in a position with little to no client interaction.
5. **Encouraging Diversity:** There are many ways to make employees feel more comfortable at work. These include holding diversity training sessions, having a consultant come in and answer questions about transitioning, and providing unisex, single restroom facilities if possible. Another way to ease the transition is to recognize a transitioning employee's new name before the name is legally changed. Creating a

culture of respect while listening and honoring an employee's decision at work is instrumental to fostering a more inclusive workplace.

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