

March 1, 2016 - Gender Transition in the Workplace - An Interview with **Denise Banuelos**, Board Member for the California and Los Angeles Diversity Council's.

Interview conducted by Immediate Past President of the Los Angeles Diversity Council, Stephanie Neuvirth and Vice President, Denise Kirwan

Denise, thank you for being willing to share your knowledge and experience with our California Diversity Council members today on the important topic of **Gender Transition in the Workplace**. Because of your Board membership with the Los Angeles and California Diversity Council's, we are aware of your expertise in these matters that has been very helpful to employers in Los Angeles who have attended one of your workshops. Perhaps we could begin our conversation by your helping us ground ourselves in some of the appropriate language and terminology associated with Transgender and gender identity. Then, we'd like to ask you about some of the "what's and how's" surrounding a California Employer appropriately supporting an employee who is transitioning or identifying with a gender that is different than how they have been in the past.. To begin:

1) What is the definition of Transgender and gender identity?

Transgender, is the term for a broad range of people whose gender identity or gender expression is different from that typically associated with the sex assigned to them at birth. **Gender identity** is an individual's innate, deeply felt personal sense of gender. It is different from sex, which is the biological status of being male or female. Some other definitions that might be helpful during our conversation include: **Gender expression**, which is how a person communicates gender identity to others through behavior, clothing, hairstyle, voice or body characteristics, and **transitioning** -- the process of going from male to female (MTF) or female to male (FTM) also called gender conversion – where an individual has essentially decided that they are going to live their life with how they deeply identify.

2) What is the transitioning process and how would an employer know an employee is transitioning?

The **transition** process begins when the individual makes a decision to transition. Depending on how far they choose to transition, it can start with hormone therapy to alter their appearance to match the gender they identify with. If the person chooses to have **gender reassignment surgery**, before surgery can be performed, prospective patients are required to live for one year as the desired gender in presentation (gender expression – see Question 1) and dress and go through psychotherapy.

Not all transgender people undergo extensive physical transformation or surgery. Some have just hormonal treatments, while others have operations on the face and chest and not the genitals. It's the Individual's choice to how far they want to physically transition.

The process can take some time and may include changes in dress, name and gender identification, behavioral changes such as mannerisms, voice, and physical appearance.

3) What training should be provided to the HR team and managers?

The HR team should receive training in advance of an employee announcing their plans to transition in the workplace. The training should include:

- Defining terminology of what transitioning means, and what words not to use.
- Discuss ways to create an inclusive environment where the transgender person feels welcome and not judged.
- Review of EEO policies and sexual harassment and
- Communicate company expectations and appropriate conduct
- Access and Accommodations – in California, you must know the laws that protect a transitioning employee once they are identifying and presenting. You don't want to segregate – and there could be some legal consequences w/ not understanding the laws.
- Advise managers on what to expect (e.g. How their appearance might change including facial hair changes, voice changes, etc.). Additionally, it is appropriate to ensure that the employee follow the dress-code for the gender in which they are presenting if there is not a "gender neutral" dress code in your organization.
- Recognize the legal gender (use new name, proper pronoun, treat the same as other members of that sex)
- Ensure leadership commitment and lead by example
- Identify internal and external resources (Internal: ERGs, law dept., D&I officer, Employee Assistance program, Employee Information Center, Employee Relations, HR Strategic Business Partners; External: Out and Equal Workplace Advocates, Transgender Law Center, Human Rights Campaign)

4) How should you address situations where the employee wants you to know they are transitioning but has asked you not to share with others?

The process of transitioning to another gender cannot be hidden from co-workers. However, **until HR gets the green light to take any action, they must respect their request for privacy.** After the employee announces a desire to transition, there may be a considerable gap in time. From my experience, during this gap the individual is weighing all the risk of what they stand to potentially lose: housing, income, family, friends, respect, determining who to trust at work, fear of being outed too soon.

Discuss with the employee what you can do to support them. While waiting to move forward, put guidelines in place as soon as you are put on notice that includes the actions of the company and the expressed requirements of the employee's conduct and behavior consistent with company policies. Review the dress code and ensure it is gender neutral. Determine facility access guidelines and if a single stall needs to be identified. Determine appropriate norms of conduct: require employees to use proper pronouns etc.

Train all HR staff and managers on what to expect and company expectations of them. Establish a complaint procedure so employees know where to go to voice their concerns.

A real-life situation you might face – the employee wants to use the men’s dressing room. You would need to determine how are they presenting? The employee would not be able to flip-flop back and forth on a daily basis, however, if the employee decides that how they are presenting isn’t working out and decides to go back to the opposite gender, that flip-flop is something that the employer would need to accommodate. How do they demonstrate what has changed? They can present records that they’ve been to court, or DMV records with changed name or gender.

5) How do you best prepare the employee’s department for the transition?

First meet with the transitioning manager(s) to inform them their employee is preparing to transition in the workplace. Inform them on what they can expect to happen next and their role in the process. It is essential that the Leader (leadership) be committed and support their employee. They can’t say/demonstrate one set of behaviors to the employee and express something different to other employees, behind the transitioning employees back. Establishing roles/responsibilities with leaders may take a couple of meetings to develop understanding or, may be immediate.

Provide training to all employees who have direct contact with the transition shortly before the employee begins working in his or her new role. Meaning train employees in every department the transitioning worker has frequent interaction with.

Follow up regularly to check in.

6) Is it a good practice to prepare/notify the entire organization?

No, only those with whom the transitioning employee is interacting. That said – I once worked with a service center that had approximately 300 people and the transitioning employee’s position crossed the desks of all 300 people, so everyone needed to be trained. In most circumstances, only the individual’s co-workers are to be informed and no one else needs to be informed.

7) How should an organization communicate about the employee’s transition or should an organization communicate?

Give the employee the option to tell their co-workers directly via – in person, email, letter or individually or in a group. However, the employee may not feel comfortable speaking or writing a letter to their co-workers. In this case the company should make the announcement either in writing or in a meeting or made at a training session. Not everyone needs to be informed, but people in direct contact on a daily basis should be included. Do not include the transitioned worker so employees can ask questions freely. The employee may ask you if the company has to say anything at all? The appropriate response is “Yes, we do. If you are going to present in a different gender”. Let the employee know how you plan to communicate these types of changes. If possible, allow the employee to help you write the announcement or weigh in on the training guide. The employer should not let the transitioning-transitioned employee decide on no communication at all to employees, even if they say they don’t want to be the one to tell their peers. HR needs to decide how and declare the appropriate mode of communication.

8) Are there physical accommodations that should be made to the work environment i.e. restrooms, locker rooms etc.?

Grant unrestricted restroom, locker room, and shower access to be used according to an employee's new gender role. Make sure the stalls in both men and women's restrooms provide adequate privacy (doors, curtains, etc.) to help everyone share the restrooms more comfortably.

A transitioning employee may opt to use single occupancy or unisex facilities but cannot be required to do so. Co-workers uncomfortable with a transgender employee's use of the same restroom may use the single occupant restroom facility, if available, or they may wait until the employee leaves the restroom or use a restroom located in a different part of the facility, if available. I once encountered a situation where a non-transitioning person feared the person would change right out in the open. If concerns are expressed, let the employee "vent" and talk through their concerns with them. However, at the end of the day advise the person that you (the employer) cannot discriminate against the transgender employee.

9) How have you dealt with the discomfort of others who are not comfortable with the transgender employee's decision?

In a diverse workplace employees are required to work with all kinds of people. Provide an avenue for the employee to talk to someone to express their concerns, vent their feelings, frustrations, resentment and fears. The person they can speak with can be their manager, HR or EAP (be sure EAP is prepared in advance to have someone on staff available to address these concerns). Make sure the employee knows that their manager has been informed, is aware of what is happening and is open to talk to them. During this conversation it is important to separate private values from workplace conduct and reiterate your company's expectations of respect and professionalism toward the transition employee. You might say something like "we're not asking you to change your values or your religious views. We're asking you to support our company values of professionalism and respect toward your co-workers". If needed you can also indicate "there is support for you internally and externally, but we cannot let you act out your/those feelings with a co-worker. We can't support that".

The likelihood of negative reactions can be reduced by establishing a culture of appreciation of differences, providing adequate training and treating all employees fairly. You can expect to get varied reactions the first day, but typically not after.

Remind employees they are protected by the same laws and policies that protect the transitioning employee.

10) What resources are available to help employers through transgender employment issues in Southern California/Los Angeles?

Transgender Law Center: www.transgenderlawcenter.org

Human Rights Campaign: www.hrc.org

Out & Equal Workplace Advocates: www.outandequal.org

LA LGBT Center: <http://www.lalgbtcenter.org/> (Drian Juarez, Manager Transgender Economic Empowerment Project, provides help to organizations to establish Transgender in the Workplace Guidelines); djuarez@lalgbtcenter.org

11) What advice would you give that we didn't ask above?

- Let the employee set the timetable
- Select a point person who will listen and assist the transitioning worker. (This person doesn't have to be in HR – it could be the head of one of your LGBTQ-ERG, the individual's manager, or a strong advocate of D&I)
- Don't wait - Examine current practices and rules in your organization now for the process of changing a name on the ID badge, email address and health and payroll records
- Let the employee decide how to tell their co-workers – in person, by email, individually or in a group (if the employee does not want to do this themselves, then HR should communicate to employees in a way that is appropriate for the work culture)
- If the employee is in a union, Engage the union early in the process for their support
- Leadership commitment includes being verbally open to supporting the transition employee and leading by example
- Identify one bathroom that can be converted to a unisex with a lock before notifying employees
- Identify a single point of contact to facilitate changing employee information such as name on employee badge, name on the employee's email, and payroll records
- Train all managers and employees impacted by the transition
- Limit training materials to a simple resource sheet or tools
- Establish periodic follow up with transitioning employee and managers
- Immediately acknowledging the new name and using the proper pronoun would make the person feel welcome and accepted following the transition.
- Transgender workers are the same people they were before they transitioned. In fact might even be better co-workers and friends now that they have the opportunity to bring their whole self to work.

Denise, Thank you greatly for sharing your expertise. How can people reach you if they'd like more information?

- They should contact Jacob Tadesse, Manager, National Diversity Council.
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