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Marjorie McMahon Obod

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by Marjorie M. Obod

Labor & Employment

Media Contact

Peter Dunn
Director of Client
Relations and
Communications
Philadelphia, PA
pdunn@dilworthlaw.com

HOW TO BE AN ALLY TO TRANSGENDER EMPLOYEES AND PREVENT DISCRIMINATION

October is LGBT History Month and a great time to take a look at what you can be doing as an employer to be an ally to transgender employees and job applicants. In addition to improving the overall hiring process for transgender employees, educating yourself and your employees can be a powerful tool in creating a healthy and productive workplace that encourages diversity and protects against discrimination claims.

Education and training can help ensure that transgender individuals feel comfortable during both the application and initial hiring process as well as during employment. Managers and supervisors should be educated on best practices that will enhance sensitivity to facts that may relate to the possibility that job applicants may have transitioned or are in the process of transitioning and be advised that in no circumstance is it appropriate to discriminate against an applicant because of that fact. A transgender candidate's name and gender on an application may mirror their current presentation, but background checks or immigration status documentation may disclose a previous name different than the one they are now using. In this instance, managers should ask the applicant in a respectful manner whether they were previously known by a different name and confirm with them the name they wish to use throughout the hiring process. This is also an opportune time to confirm with a transgender candidate what pronouns they use and to ensure that appropriate bathroom policies are in place. Gender pronouns (his, hers, she, him, etc.) are an area where someone can unintentionally make a transgender person feel alienated or disrespected and simply recognizing that in a proactive way can diffuse a future issue.

Transgender employees are subject to the same privacy concerns and issues as other employees. If a manager learns that an applicant was previously known by a different name and/or gender, that information should be kept on a need-to-know basis and **not** shared with other employees. If a transgender employee wants to share their status or history with their colleagues, that is theirs to tell – not yours.

There are myriad other ways in which you can position yourself as an ally to transgender employees and job applicants—including training your staff on how to be sensitive to the unique issues faced by their LGBT colleagues and customers and examining seemingly innocuous policies, such as a dress code requirement—so that they do not create the potential for liability. Dilworth counsel is experienced in handling matters with transgender employees and can provide advice on these areas and more.



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-Marjorie M. Obod is a partner at Dilworth Paxson LLP and Chair of its Labor and Employment Group. Marjorie is an experienced presenter on LGBT-related employment issues and has defended clients in all kinds of employment litigation, including disputes involving LGBT employees.