

# Guidelines for Supporting Transgender and Gender Variant Employees

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## Introduction

In December 2012, the *Nova Scotia Human Rights Act* was amended to specifically incorporate the protection of transgender people from discrimination.<sup>4</sup> The amendment to the Act explicitly included gender identity and gender expression as prohibited grounds of discrimination and harassment.

Halifax Regional Municipality (the municipality) is committed to fair and equitable employment practices and to creating a harassment-free work environment. These guidelines are designed to help managers, supervisors, Human Resources, and employees take steps to create a workplace culture in which transgender and gender variant employees feel safe, supported and fully included. This helps support the municipality's commitment to diversity and inclusion as outlined in the municipality's Plan on a Page.

Discrimination and harassment is also a violation of the municipality's *Workplace Rights Harassment Prevention Policy*. To discriminate, harass, or hinder the advancement of an employee based on these protected grounds can lead to discipline up to and including termination of employment.

For more information, refer to the *Supporting Transgender and Gender Variant Employees Handbook*.

## Language in this Document

These guidelines have been created with the intent of being as accurate, respectful, and inclusive as possible at the time of development. As language and terminology evolve over time, all reasonable efforts will be made to provide modifications to these guidelines. A list of terms and concepts is included in the *Supporting Transgender and Gender Variant Employees Handbook*.

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<sup>4</sup> Bill no. 140 *Transgendered Persons Protection Act*.  
*Handbook*.

## Purpose

In accordance with the *Nova Scotia Human Rights Act*, these best practice guidelines have been developed to:

- Set the municipality's expectations for supporting employees based on their gender identity and gender expression;
- Ensure transgender and gender variant employees have equal access to all aspects of work life culture and environment in ways that not only provide them with respect but also protect their dignity; and
- Support everyone across the organization to fulfill the shared obligation to promote dignity, respect, equality and a harassment-free workplace.

## Application

These guidelines apply to all municipal employees, including those employed on a personal services contract, and volunteers.

## Principles

- Self-identification as the sole determinant of an employee's gender identity
- A positive, proactive approach that promotes and protects the rights of transgender and gender variant employees
- Transgender and gender variant employees have a right to access spaces within the workplace and experience their work environment in ways that correspond to their gender identity

## Guidelines

### **1 – Privacy and Confidentiality**

All employees have a right to confidentiality and privacy. This includes not disclosing an employee's transgender or gender variant identity to others, including other employees (e.g. managers/supervisors, team members) unless the employee has authorized such disclosure (e.g. to fulfill a specific request for support).

*Outing someone can be considered a form of harassment. Even if the employee discusses with you their desire to disclose their transgender/gender variant identity to others, it is their decision, when, where, if and how they will do so. For example, do not send an email to all employees or make a formal announcement because a transgender employee is transitioning*

*or has joined the workplace (unless that employee has specifically requested such communication to facilitate their process).*

If it has been determined that an employee's transgender/gender variant identity must be shared for legal reasons, the employee must be notified prior to the information being disclosed. The employee must be informed who the information will be shared with and the purpose behind sharing this sensitive information with that individual(s).

*For example, due to some hiring requirements and the process of a criminal record check, a transgender or gender variant employee's current and previous legal name(s) and current and previous legal sex designation(s) may be recorded on employment-related documents. All personnel must keep this information confidential.*

## **2 – Names and Pronouns**

Transgender and gender variant employees have the right to be addressed by their name(s) and pronoun(s) corresponding to their gender identity. This is true regardless of whether the employee has obtained legal documentation indicating a name or sex designation change. (In some instances, an employee may be required to provide their legal name on legal documentation; however, this would only be for the legal record and not for addressing the employee).

*It is important to note that deliberately addressing an employee by the incorrect name(s) and/or pronoun(s) may be considered a form of discrimination and/or harassment. This does not include inadvertent slips or honest mistakes, but it does apply to the deliberate and persistent refusal to acknowledge and respect an employee's gender identity by not using the employee's identified name(s) and pronoun(s).*

## **3 – Dress Guidelines**

All employees have the right to dress in a manner consistent with their gender identity and in accordance with the municipality's *Workplace Professionalism Guidelines*. No employee should ever be required to dress or present themselves in a stereotypically feminine or masculine way to be treated respectfully and to participate in the workplace. Employees should be free to choose which available clothing is appropriate for them.

## **4 – Work Life and Social Events**

Employees have a right to participate safely and fully in all aspects of work life, including social events, in accordance with their gender identity. All employees should be able to

participate in work-related social events.

- When planning and executing events/activities, consider who in the group may be impacted and in what ways.
- When planning work or social events offsite, access to an all-gender washroom should be considered.
- Avoid activities that are based on or segregated by gender. Requiring participation based on an employee's sex assigned at birth or status of medical transition is prohibited.

*For example, a baby shower is being planned for a cisgender<sup>25</sup> female co-worker in the staff room at lunch. Invitations are sent only to cisgender women on the team. A gender variant team member who does not identify within the gender binary is not invited. Additionally, there are some cisgender men on the team who would have joined the event if had they been invited.*

## 5 – Gender Specific Work Assignments

Where gender-specific work assignments or duties exist, employees will be assigned in ways that make them feel safe and comfortable and, if requested by the employee, are consistent with their gender identity.

- In rare instances, there may be a need to assign work on a gender-specific basis (i.e., a female life guard assigned to a female-only swim time). Placing a transgender or gender variant employee in a gender-specific assignment or requiring them to perform gender-specific duties should be informed by the employee's comfort/safety level and, if requested by the employee, correspond to their gender identity regardless of their sex assigned at birth.
- Requiring medical transition or providing "proof" of the employee's gender identity (by requiring a doctor's letter, identity documents, etc.) to be eligible for gender-specific assignments or duties is not acceptable.
- Limiting or modifying the duties of transgender or gender variant employees based on concerns from the public or co-workers is not acceptable unless requested by the employee based on their safety/comfort (e.g., having a public serving employee perform internal office duties due to concerns from a member of the public; shifting an employee from one project to another due to concerns from coworkers).

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<sup>5</sup> Cisgender - Having a gender identity that is the same as one's sex assigned at birth (e.g. both assigned sex and gender identity are female).

## 6 Employee Washrooms & Change Rooms

All employees have a right to safe washroom and change facilities. All employees have the right to use facilities that they are comfortable using and that correspond to their gender identity, regardless of their sex assigned at birth.

- No single solution will work for every work site; however, all work sites will find solutions that are safe, accessible and respectful to transgender employees.
- Where possible an easily accessible<sup>6</sup>, all-gender washroom will be provided for use by any employee who desires increased privacy, regardless of the underlying reason (e.g., medical, religious, cultural, gender identity, gender expression, etc.)
- It is important that the use of a all-gender washroom is a matter of choice for an employee and not a result of continuing harassment and discrimination in a gender- appropriate facility. If possible, more than one all-gender washroom is encouraged.

Where there are concerns or uncertainty, contact Human Resources.

*When accessing gender-specific facilities, an employee does not need permission to use the washroom that aligns with their gender identity.*

## Resources

- *Nova Scotia Human Rights Act* (<http://nslegislature.ca/legc/statutes/human%20rights.pdf>)
- *Supporting Transgender and Gender Variant Employees Handbook*
- *Workplace Rights Harassment Prevention Policy*
- *Workplace Professionalism Guidelines*