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## Best Business Practices to Openly Value the Transgender Workforce

### White Paper

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Often, when we hear of discrimination in the workplace, we think of discrimination against race, gender, or religion, along with other EEOC areas. Recently, there has been more attention on the transgender population in the workforce. This whitepaper will overview why companies are trending towards open non-discriminatory practices as well as valuing their transgender workforce.

#### **Defining Transgender**

Transgender is used to describe people who experience and express their gender differently than conventionally expected. Transgenders may express their genders differently than what they were designated with at birth as they believe that their true gender does not match their sex. Transgenders may alter their sex through methods such as surgery to match what they feel is their true gender (Human Rights Campaign, 2008).

#### **Transgender Workforce Trends**

In 2004, there were 27 Fortune 500 companies that openly prohibited discrimination on gender identity. By 2008, there were 153 Fortune 500 companies that openly prohibited gender identity discrimination. Many employers have attempted to gain data on the number of transgender employees within their organizations. J.P. Morgan Chase was one such organization who collected data by sending out an employee survey which allowed employees to designate their specific gender. The employee surveys showed that 325 of their 160,000 employees identified as transgender (Human Rights Campaign, 2008).

Despite these figures which seemingly illustrate that companies are further valuing their transgender employees, one in five transgender employees claim that they have been discriminated against and/or

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experienced harassment in the workplace. In addition to transgender employees reporting discrimination and harassment, most of the employer-based health insurance plans exclude the required medical care for transgender employees. These practices may cause a loss of talent within the organization and implicate severe costs to the employer (Human Rights Campaign, 2008).

### **Legal Implications for Employers**

Non-discriminatory practices by employers may soon be forced by legislature. In 2008, there were an estimated 100 cities and counties that put laws in place to prohibit employers from discriminating based on gender identity (Human Rights Campaign, 2008). Legislation is split in determining whether or not discrimination against transgenders should be covered in Title VII. Currently, only 12 states prohibit employers from discriminating against gender identity. A few additional states prohibit only public employers from discriminating. It's important to note, even when a state does not have a non-discrimination prohibition in place, wrongfully terminated employees can still file lawsuits against their employers (Walsh, 2011).

Another potential legal course that terminated transgender employees could take includes a disability claim. An employee who has been diagnosed with Gender Identity Disorder (GID) could claim protection under the American Disability Act (Heller, 2007). Gender Identity Disorder is defined as “a conflict between a person’s actual physical gender and the gender that the person identifies herself and himself as” (PubMed, 2010). A case of disability discrimination recently occurred and was upheld in Florida where a transsexual officer was terminated with the reason that the inmates wouldn’t respect him because of his gender identity (Heller, 2007).

### **Benefits of Supporting the Transgender Workers**

There are numerous benefits to putting beneficial policies and practices in place for transgenders. Employers who put policies into place to protect transgenders as well as support them during transition in the workplace tend to attract not only transgender employees but also other “fair-minded employees” (Human Rights Campaign, pg. 14, 2008).

When employers show commitment to their employees through providing a safe and supportive work environment, there are profound effects on morale, productivity, and the employee’s commitment to the

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organization. This principle could not be truer for transgender employees. Transgender employees may experience intense stress over even everyday matters. For instance, in the office, the transgender employee may identify as a female in gender but be considered a male by her officemates; significant stress may occur over going to the bathroom or dressing for work. These stresses may very well cause undue anxiety and affect productivity. In addition, many of these transgender employees face personal dilemmas including rejection from friends and family. If an employer highlights a supportive environment for such transgender workers including policies, procedures, and benefits, the employee productivity, job satisfaction, and appreciation of the employer will increase (Human Rights Campaign, 2008).

**What Can the Employer Do to Support the Transgender Workforce?** (Human Rights Campaign, 2008)

- *Education:* Organizations everywhere engage in mandatory trainings regarding topics such as harassment, diversity, and equal employment opportunity. These trainings serve as the perfect place to include discussion about gender identity. Additional conversations and education may be necessary in smaller groups if there are ongoing concerns.
- *Policies and Procedures:* Organizations can put written policies in place that forbid discrimination and harassment against transgenders as well as other forms of gender identity and expression.
- *Restrooms and other Facilities:* The employee would be allowed to use whichever gendered restroom that they identify with. This should be clearly communicated to the rest of the organization so it is well-understood.
- *Dress Codes:* Organizations might consider a shift in their gender specific dress codes. For instance: “women may wear skirts and slacks” and “men must wear a suit and tie” to a more neutral dress code that allows both genders to wear clothing to identify with their gender.
- *Health Insurance and other Benefits:* Consider including medically necessary treatments and procedures as set forth by the “World Professional Association for Transgender Health’s Standards of Care for Gender Identity Disorders” in your health insurance (Human Rights Campaign, pg. 20, 2008). An organization may also consider additional supports such as an employee assistance program to assist employees working through this transition.

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