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DC OHR Publishes Best Practices Guide Regarding Transgender Workers

The District of Columbia Office of Human Rights recently partnered with the National LGBTQ Task Force to publish a resource guide, “Valuing Transgender Applicants & Employees: A Best Practices Guide for Employers” (the “Guide”), designed to support employers in creating workplace and hiring policies that prevent discrimination against transgender and gender-nonconforming individuals. The guide is meant to lay the framework for building a culture of inclusion in the workplace that goes beyond legal obligations.

The suggested best practices include ensuring managers and coworkers use the names and pronouns preferred by transgender employees, maintaining the confidentiality of employees’ gender identity, implementing gender-neutral dress codes, providing access to restroom facilities corresponding to employees’ gender identity, and building an environment in which harassment or off-color comments are not tolerated.

The Guide emphasizes communication between employers and their transgender or gender-nonconforming employees and applicants so that the employer may understand what transgender employees believe a safe and inclusive workplace should look like and respond accordingly. Recognizing that each individual has different needs, employers are encouraged to work with transitioning employees to develop a plan for them to transition in the workplace. That said, transgender employees are not expected to shoulder the responsibility of educating coworkers or of ensuring their comfort. Particularly because DC law prohibits discrimination based on gender identity or expression, employers should establish clear rules requiring professional demeanor, prohibiting transphobic and other harassing behavior, and prompting quick responses to any violations.

Following DC regulations, the Guide also instructs employers to provide access to restrooms and other gender-specific facilities consistent with employees’ gender identity or expression. Consistent with guidance from the EEOC and OSHA, transgender employees should never be required to use a separate gender-neutral facility – even if a cisgender employee expresses discomfort about sharing a gendered facility with a transgendered coworker. In that case, the cisgender employee should be offered the use of a separate facility.

While the Guide has particular applicability for employers that operate in the District of Columbia, all employers should take note, as the recommended best practices are consistent with the way federal agencies are interpreting and enforcing federal law.

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