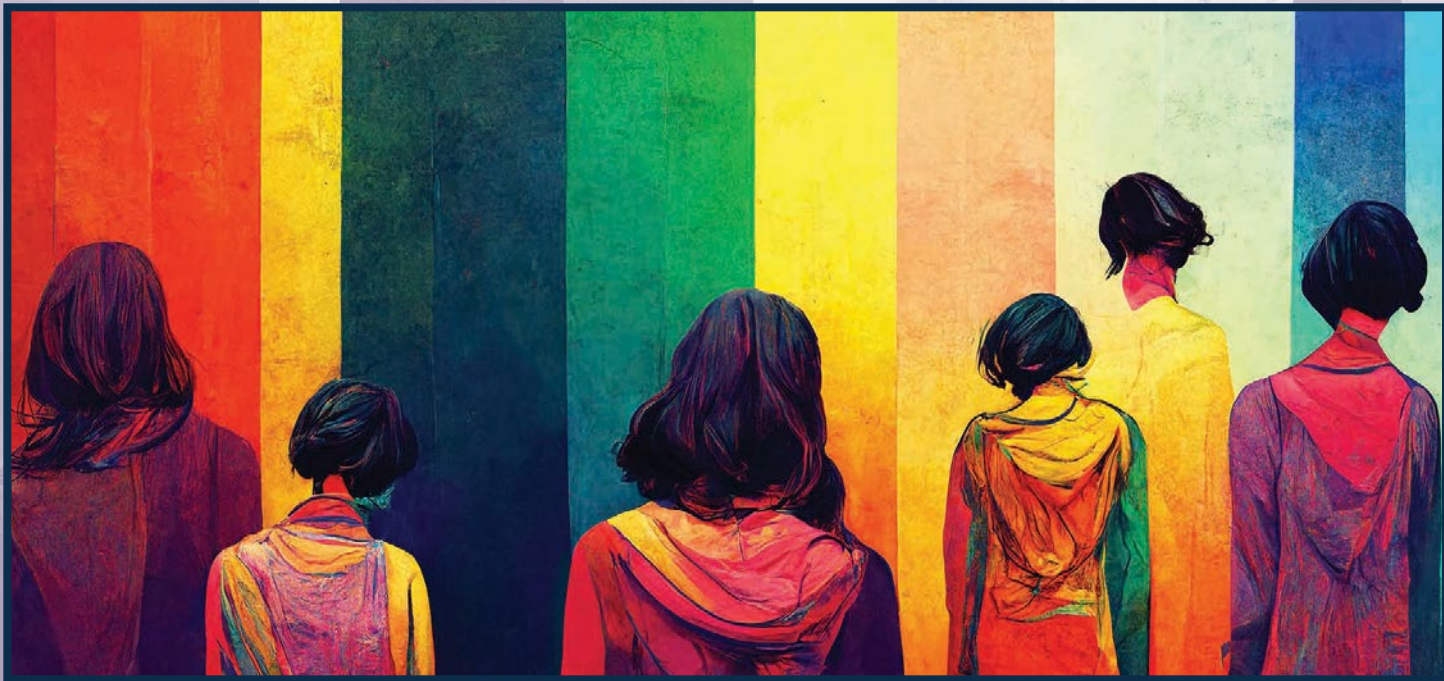


# GENDER IDENTITY IN THE NEWS MEDIA



## A Guide for Managers

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*For the Pennsylvania NewsMedia Association Foundation*



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# INTRODUCTION

This guide to gender identity for news media managers has been prepared at the request of the PNA Foundation to assist PNA members and Pennsylvania news companies in handling matters of gender identity legally, ethically and respectfully. The content reflects the perspectives of reporters, editors and human resource professionals. It also incorporates information and best practices from the Equal Employment Opportunity Commission, the Pennsylvania Office of Administration, the Transgender Law Center, Transgender Journalists Association, PEN America and the Pew Research Center.





# OVERVIEW OF GENDER IDENTITY

Gender identity is a topic that has gained prominence in recent years and continues to evolve. The idea of gender as comprising two opposite poles has begun to give way. Increasingly, people see gender, sex and sexuality as distinct. Some people's gender does not match the sex recorded on their birth certificate. Data from the Pew Research Center show four in 10 U.S. adults know someone who is transgender, and about a quarter know someone who uses they/them pronouns.

At the same time, significant elements of society reject ideas of gender diversity. At least 37 states have introduced bills limiting or prohibiting transgender teens' participation in sports. Legislators around the country have tried to control what medical care transgender youths can receive, and what bathrooms transgender people can use.

In 2020, in the *Bostock v. Clayton County, Georgia*, case, the Supreme Court determined that firing someone because of their transgender status or sexual orientation violates Title VII of the 1964 Civil Rights Act. The Pennsylvania Human Relations Commission followed suit by adding gender identity and sexual orientation to its list of protected statuses in employment.

Some news media organizations have issued forthright statements supporting diverse and inclusive work environments. However, these have rarely touched directly on issues of gender identity. Many organizations have no policy whatsoever.

Hence this guide. Managers may find themselves in unfamiliar territory with respect to hiring, employing and retaining individuals who are transgender, gender nonconforming, or who transition to a different gender. The goal of these guidelines is to offer an introduction to the core concepts of this topic, to clarify the employer's obligations, and offer legal and ethical recommendations based on best practices. These are recommended best practices. This guide is not intended to be, nor should it be construed as, legal advice. For legal guidance, please consult with a qualified attorney.





# CORE CONCEPTS

**Gender** is part of a person's social identity. It may or may not correspond to their biological sex.

**Gender identity** is a person's internally felt sense of being male, female, neither or a combination of different gender states. Gender identities that are neither male nor female include nonbinary, agender and genderqueer. Fluctuating gender identities include genderfluid, demiboy and demigirl.

Biological sex is also called a person's **assigned gender** or **sex assigned at birth**. Biological sexes may include male, female and intersex.

**Gender presentation** is how a person expresses their social identity through their appearance and mannerisms. People whose gender presentation does not match societal expectations for their gender are **gender nonconforming**.

**Cisgender** and **transgender** describe a person's relationship to their sex assigned at birth.

Cisgender individuals have a gender identity that matches their sex assigned at birth.

Transgender individuals' gender does not. Some nonbinary individuals consider themselves transgender, some do not. A person's sexual anatomy and whether they have had gender-confirming surgery are private matters.

**Transitioning** is the process of changing one's gender presentation to match one's inner gender identity. This may or may not include changes in clothing, hairstyle, name, pronouns and medical interventions. The details of a person's transition, their sexual anatomy and whether they have had gender-confirming surgery are private matters.

**Sexuality** and **sexual identity** both refer to a person's patterns of sexual or romantic attraction. Sexual identities may include lesbian, gay, bisexual, asexual or heterosexual.



# BEST PRACTICES FOR EMPLOYERS

## Written policies

Write non-discrimination and anti-harassment policies that clearly and specifically protect gender identity, gender expression, sex and sexual orientation. Write a workplace transition plan. Outline protocols and the behavior you expect from employees. Include a list of individuals who can answer questions about internal policies, health insurance and transitioning.

Thoroughly acquaint employees with these policies during onboarding. Continue to ensure the policies are understood and followed through periodic communications and workplace education.

## Workplace education

Encourage and provide ongoing education about transgender matters whether or not you have transgender employees. Hire experts to deliver this education to your full workforce on paid time, either in-person or virtually. This will improve your media outlet's coverage of transgender issues and create a safe and welcoming environment for future transgender employees. Do not ask transgender employees to provide this education.

## Privacy

Employees have the right to choose when and how to disclose their gender status to an employer. They are generally not required to provide details of their medical care or other private information.

Information regarding an employee's transgender status should be considered confidential. It may not be disclosed to anyone without the employee's express permission.

Management should make it clear to all employees that details regarding a transgender individual's biological sex or gender-related medical care is private and off-limits.

## Names and pronouns

All records and communications should use an individual's preferred name and correct pronouns. If their legal name is different, use it only where required by law. All employees should be addressed by their preferred name and correct pronouns.

Persistent and intentional refusal to address someone with their preferred name and correct pronouns is legally considered harassment. This must be specified in the anti-harassment and anti-discrimination policies, and all employees need to know this from the beginning of their employment. For more information, it is suggested that case law (specifically *Lusardi v. Department of the Army*) be reviewed.

# BEST PRACTICES FOR EMPLOYERS

## Transitioning

Write a Workplace Transition Plan that streamlines and specifically outlines the types of support, the people to contact, and the steps required to transition on the job. Emphasize that any employee who transitions will receive help and individualized support as they transition.

Transition plans should cover

- Who is responsible for helping the employee manage their workplace transition
- What the employee can expect from management as they transition
- What management expects from staff and transitioning employees. Where possible, the plan can extend the support of a lesbian, gay, bisexual, transgender (LGBT) employee resource group to the transitioning employee.
- What the procedure is for making transition-related workplace changes, such as changing the name on personnel and administrative records and developing an individualized communication plan to share the news with coworkers and the public.
- How to ensure that past bylines have been updated with the employee's new name.

## Harassment

Discriminating against or harassing an employee or prospective employee on the basis of their gender, gender identity or gender presentation is illegal. It is also unlawful and discriminatory to retaliate against someone who objects to discrimination or harassment they experience on the job. This should be made clear to all employees at every level.

In order to create a safe working environment for transgender and gender nonconforming employees, incidents of discrimination, violence or harassment must receive prompt attention. Incidents must be investigated and corrective action taken, including but not limited to official sanction and providing employees and staff with appropriate resources.

## Facilities

Employees must have access to bathrooms, locker rooms and other gender-segregated facilities that correspond to their gender identity. For any employee requiring additional privacy, it is a best practice to make available a single-occupant bathroom or changing room without drawing attention to or divulging the person's gender status.

## Dress codes

Dress codes should be written in such a way as to apply equally to people of any gender. All employees should have the freedom to dress in ways that conform with the gender presentation they find most comfortable, while adhering to company dress codes.

## Health insurance

Offering health insurance that covers transition-related and gender-confirming medical care is key to recruiting and retaining transgender employees.

# SOURCES, REFERENCES AND RESOURCES

## Sources Interviewed

- Scott Blanchard, Director of Journalism, WITF News and StateImpact Pennsylvania
- Jade Campos, Editor in Chief, The Daily Collegian
- Lisa Cunningham, Editor in Chief, Pittsburgh City Paper
- Shane Fitzgerald, Editor in Chief, Bucks County Herald and formerly, Pennsylvania State Editor for the USA Today Network
- Gabriela Martínez, Multimedia Reporter, WITF
- Walter Middlebrook, Foster Professor of Practice, Penn State University
- Anthony Orozco, Multimedia Journalist and Host, WITF
- Jason Villemez, Editor, Philadelphia Gay News

## References Consulted

**Gender Fluidity and HR: Moving Beyond M/F Labeling**, by Lorrie Lykins - Managing Editor, VP of Research, i4cp

**He, She or They: Creating Inclusivity for Non-Binary Gender Identity Employees**, by Jeanette Coleman, SPHR & SHRM-SCP

**How to Approach Gender Identity in the Workplace** - Tandem HR

**Inclusion** - Gannett

Pennsylvania Office of Administration: **Gender Transition Guidelines**

**Psychological safety: Online harassment and how to protect your mental health** - Committee to Protect Journalists

**Safety of women and nonbinary journalists on and offline**

**Sexual Orientation and Gender Identity (SOGI) Discrimination** | US Equal Employment Opportunity Commission

**Trans Journalists Association**

- **Best practices for trans-friendly workplace policies**
- **A Guide For Supporting Employees Coming Out As Transgender** – Trans Journalists Association

**Transgender Employees in the Workplace: Rights & Resources**

Transgender Law Center: **Model Transgender Employment Policy**

**Wolf, Pa. Democrats again push for passage of LGBTQ discrimination protections** · Spotlight PA

**Working as a Transgender Individual in Pennsylvania**, and **Philadelphia Employment Discrimination Lawyers | Transgender** by Sidney Gold, of the employment law firm, Sidney L. Gold & Associates in Philadelphia

## Recommended resources

Pennsylvania Office of Administration: **Gender Transition Guidelines**

**Safety of women and nonbinary journalists on and offline**

**Sexual Orientation and Gender Identity (SOGI) Discrimination** | US Equal Employment Opportunity Commission

**Trans Journalists Association**

- **Best practices for trans-friendly workplace policies**
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Transgender Law Center: **Model Transgender Employment Policy**, with a sample workplace transition plan





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