

DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

Purpose

The purpose of this policy is to:

1. Foster an environment that is safe, welcoming, and free from stigma and discrimination for all employees, regardless of sex, sexual orientation, gender identity, or gender expression,
2. Facilitate compliance with local, state and federal laws concerning bullying, harassment, privacy, and discrimination,
3. Ensure that all employees have the opportunity to express themselves and live authentically.

Definitions

These definitions are provided not for the purpose of labeling employees but rather to assist in understanding this policy and the legal obligations of City and district personnel. Employees may or may not use these terms to describe themselves.

BULLYING: Written, verbal, or physical conduct that is sufficiently severe, persistent, or pervasive to limit an employee's ability to participate in, or benefit from, a program or activity of a public City or local agency; or to create a hostile or abusive environment, adversely affecting an employee's employment, including acts of verbal, nonverbal, or physical aggression or intimidation. This includes bullying that is based on an employee's actual or perceived race, color, national origin, sex, disability, sexual orientation, gender identity or expression, religion, or another distinguishing characteristic. This also includes conduct that targets an employee because of a characteristic of a friend, family member, or other person or group with whom an employee associates. Bullying is frequently referred to as harassment when it pertains to a characteristic protected by non-discrimination laws.

BIOLOGICAL SEX or SEX AT BIRTH: A person's biological status based on anatomy and is typically categorized as male, female, or intersex.

CIS-GENDER: term for someone who exclusively identifies as their sex assigned at birth

GENDER EXPRESSION: The manner in which a person represents or expresses gender to others, often through behavior, clothing, hairstyles, activities, voice, or mannerisms.

GENDER IDENTITY: A person's deeply held sense or psychological knowledge of their own gender, which can include being female, male, another gender, or no gender. Gender identity is an innate and largely inflexible part of a person's identity. One's gender identity can be the same or different than the sex assigned at birth.



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

The responsibility for determining an individual's gender identity rests with the individual. Children typically begin to understand their own gender identity by age four, although the age at which individuals come to understand and express their gender identity may vary based on each person's social and familial social development.

GENDER DIVERSE or GENDER NONCONFORMING: A term for people whose gender expression differs from stereotypical expectations, such as "feminine" boys, "masculine" girls, and those who are perceived as androgynous. This includes people who identify outside traditional gender categories or identify as multiple genders. Other terms that can have similar meanings include gender diverse or gender expansive.

NON-BINARY OR GENDERQUEER: Terms used by those who identify with neither, both, or a combination of male and female genders.

SEXUAL ORIENTATION: A person's romantic or sexual attraction to people of the same or opposite gender or multiple genders. Transgender and gender diverse people may have any sexual orientation.

TRANSGENDER: An adjective describing a person whose gender identity or expression is different from that traditionally associated with an assigned sex at birth. This term is frequently shortened to "trans."

TRANSITION: The process in which a person goes from living and identifying as one gender to living and identifying as another. Transition is a process that is different for everyone, and it may or may not involve social, legal, or physical changes. There is no one step or set of steps that an individual must undergo in order to have their gender identity affirmed and respected.

Scope

This policy covers conduct that takes place in the City, on City property, at City-sponsored functions and activities, on City buses or vehicles and at bus stops. This policy also pertains to usage of electronic communication that occurs in the City, on City property, at City-sponsored functions and activities, on City buses or vehicles and at bus stops, and on City computers, networks, forums, and mailing lists, as well as any electronic communication that is directed at a employee and which substantially interferes with the employee's ability to participate in or benefit from the services, activities, or privileges provided by the City. This policy applies to the entire City community, including staff, board and commission members, elected officials, volunteers, and residents.

Bullying, Harassment, and Discrimination

Discrimination, bullying, and harassment on the basis of sex, sexual orientation, or gender identity or expression is prohibited and not tolerated. It is the responsibility of each individual to ensure that all employees, including transgender and gender diverse employees, have a safe working environment.



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

The scope of this responsibility includes ensuring that any incident of discrimination, harassment, or bullying is given immediate attention, including investigating the incident, taking appropriate corrective action, and providing employees and staff with appropriate resources. Enforcement of anti-bullying policies shall focus on education and prevention. Complaints alleging discrimination or harassment based on a person's actual or perceived gender identity or expression are to be taken seriously and handled in the same manner as other discrimination, bullying, or harassment complaints. City administrators shall make every effort to keep transgender and gender diverse employees at the original City site/department. Transfers shall not be a City's first or preferred response to harassment of transgender and gender diverse employees and shall be considered only rarely, when necessary for the protection or personal welfare of the transferred employee or when requested by the employee. The employee must give consent to any such transfer.

Privacy/Confidentiality

All persons, including employees, have a right to privacy, and this includes the right to keep one's transgender status private. Information about an employee's transgender status, legal name, or gender assigned at birth constitutes confidential personally identifiable and medical information. Disclosing this information to other employees or other third parties may violate privacy laws and constitutional privacy protections. Additionally, disclosure or misuse of this information may establish a hostile environment for a transgender or gender diverse employee, potentially subjecting them to bullying and harassment, by peers, discrimination by other staff, or personal life issues. The City shall ensure that all personally identifiable and medical information relating to transgender and gender diverse employees shall be kept confidential in accordance with applicable state, local, and federal privacy laws. City staff shall not disclose any information that may reveal an employee's transgender status to others, unless legally required to do so or unless the employee has authorized such disclosure. In rare instance that a City is legally required to disclose an employee's transgender status, the City should provide the employee an opportunity to make that disclosure themselves, where practicable. This would include providing the employee with any support services the employee would need to make the disclosure in a safe and supportive environment. Transgender and gender diverse employees have the right to discuss and express their gender identity and expression openly and to decide when, with whom, and how much to share private information. The fact that an employee chooses to use a chosen name, to transition, or to disclose their transgender status to staff or other employees does not authorize City staff to disclose an employee's personally identifiable or medical information. When contacting the transgender or gender diverse employee, staff should use the employee's legal name and the pronouns specified by that individual. (See "Employee Transitions" below)

Media and Community Communication

When communicating to the media or community about issues related to gender identity or expression, the City shall have a single spokesperson to address the issue.



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

Rather than directly commenting on the issue, other City staff shall direct the media to the designated spokesperson. Protecting the privacy of transgender and gender diverse employees must be a top priority for the spokesperson and all staff, and all personally identifiable and medical information shall be kept strictly confidential, in accordance with local, state, and federal privacy laws.

Names, Pronouns, and City Records

Every employee has the right to be addressed by a name and pronoun that corresponds to the employee's gender identity. Regardless of whether a transgender or gender diverse employee has legally changed their name, we will allow such employees to use a chosen name. It is recommended that HR staff privately ask transgender or gender diverse employees how they want to be addressed. Some may feel most comfortable being addressed by gender-neutral pronouns such as "they" or "ze" (pronounced "zee") or just referred to by their names (without pronouns). If the employee has previously been known by a different birth name, HR or the Department Head will direct City personnel to use the employee's chosen name and appropriate pronouns. To ensure consistency among administrators and staff, every effort will be made to immediately update employee records with the employee's chosen name and appropriate gender markers. Records with the employee's birth name will be kept in a separate, confidential file. City staff or administrators may be specifically required by law to report an employee's birth name or gender. In those instances, City staff and administrators shall adopt practices to avoid the inadvertent disclosure of such confidential information.

Access to Gender-Segregated Activities and Facilities

With respect to all restrooms, locker rooms, changing facilities, etc., employees shall have access to facilities that correspond to their gender identity. The City may maintain a separate restroom, locker room, changing facilities, etc., for cis-gender male and female employees, provided that they allow all employees equal access to facilities that are consistent with their gender identity. Employees, including non-binary employees, should determine which facilities are consistent with their gender identity. Any employee who is uncomfortable using a shared sex-separated facility, regardless of the reason, shall, upon the employee's request, be provided with a safe and non-stigmatizing alternative. This may include, for example, addition of a privacy partition or curtain, provision to use a nearby private restroom or office, or a separate changing schedule. However, requiring a transgender or gender diverse employee to use a separate space threatens to publicly identify and stigmatize the employee as transgender and should not be done unless requested by an employee. Under no circumstances may employees be required to use sex-segregated facilities that are inconsistent with their gender identity. Where they exist, the City shall designate facilities designed for use by one person at a time as accessible to all employees regardless of gender. However, under no circumstances may an employee be required to use separate facilities because they are transgender or gender diverse.



DEPARTMENT OF HUMAN RESOURCES

EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

Other Gender-Based Activities, Rules, Policies and Practices

As a general matter, the City shall continually evaluate all gender-based activities, rules, policies, and practices to ensure general neutrality and equal opportunity for all. Employees shall be permitted to participate in any such activities or conform to any such rule, policy, or practice consistent with their gender identity.

Dress Code

May enforce dress codes pursuant to City policy, but any such dress codes may not be based on gender. Employees shall have the right to dress in accordance with their gender identity and expression, including maintaining a gender neutral appearance within the constraints of the dress codes adopted by the City. City staff shall not enforce a City's dress code more strictly against transgender and gender diverse employees than other employees.

Employee Gender Transitions

An employee's need to transition in the workplace can arise in a number of ways. Most commonly, an employee will disclose this need to HR or their immediate supervisor. HR will meet with the transitioning employee to discuss the timing of the transition, planning responses to questions from City staff and employees, and correcting the employee's information in the City records, among many others. This meeting should be conducted without any additional City personnel, unless the employee specifically requests or consents to their presence. The City shall find ways to create a safe and supportive environment for the employee.

Training and Professional Development

The City shall conduct staff training for all employees on their responsibilities under applicable laws and this policy. Information regarding this policy shall be incorporated into training for new City employees. To the extent funding is available, the City shall implement ongoing professional development to build the skills of all staff members to prevent, identify and respond to bullying, harassment and discrimination. The content of such professional development shall include, but not be limited to:

1. Terms, concepts, and current developmental understandings of gender identity, gender expression, and gender diversity in children and adolescents;
2. Developmentally appropriate strategies for communication with employees about issues related to gender identity and gender expression that protect employee privacy
3. Developmentally appropriate strategies for preventing and intervening in bullying incidents, including cyberbullying;



DEPARTMENT OF HUMAN RESOURCES
EMPLOYMENT POLICY:

TRANSGENDER AND GENDER DIVERSE RIGHTS

4. Practices and resources that supervisors can integrate into their departments to help foster a more gender-inclusive environment for all employees.
5. City policies regarding bullying, harassment, and discrimination.

Distribution and Access of Policy

This policy will be distributed annually to employees, and it will also be included in any employee handbooks, new hire orientation, City website, and employee portal.

LGBTQ+ Resources

Affirmative Counseling

2 Depot Street, Dalton,

<http://affirmativecounseling.net/gendersexualidentity.html>

Berkshire Children & Families

Live Out Loud, Youth Group, 480 West Street, Pittsfield, (413) 448-8281

<https://www.berkshirechildren.org>

Berkshire Trans Group

Peer discussion/empowerment group at Berkshire Athenaeum every other Monday at 7PM

transberkshires@gmail.com, Facebook: [@transberkshires](https://www.facebook.com/transberkshires)

Elizabeth Freeman Center

43 Francis Avenue, Pittsfield, hotline: (866) 401-2425

<https://www.elizabethfreemancenter.org/learn-more/rainbow/>

Rainbow Seniors of Berkshire County

413-496-4211

<https://rainbowseniors.org/>

