

*The Workforce Productivity and Compensation Institute*

# Transgender Inclusion in the Workplace:

How the DOJ, EEOC, OSHA, Millennials, and Gen X are  
Forcing Changes in Employer Practices



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**[www.WPCInstitute.com](http://www.WPCInstitute.com)**

**or**

**[Queries@WPCInstitute.com](mailto:Queries@WPCInstitute.com)**

Written by: D. Crosgrove, JD, MBA, and E. Kizer, MBA.

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## Overview of the Issue

2015 and 2016 have been pivotal years for employers as the transgender community has moved to the forefront of many conversations. High profile celebrities such as Caitlyn Jenner and Laverne Cox have brought many transgender people out of hiding, and seeking employment. The news is full of reports in the national media about states passing laws affecting the lives of transgender people.

These debates are heated, dramatic and provide little instruction to employers who are faced with this seemingly new diversity and discrimination issue. Gender identity and transgender issues often are a new topic for corporate America. The intention of this report is to provide legal guidance and assistance as HR practitioners trying to wade confusion. In addition, it will provide a summary of best practices that advocacy groups are encouraging corporate America to adopt. Inclusion and diversity is required, and this report will provide a basic playbook for how to create a welcoming and inclusive culture that is insulated from legal risks.

## The Legal Landscape

On June 26, 2015 the United States Supreme Court handed down the decision in Obergefell v. Hodges<sup>i</sup> which made same sex marriage the “law of the land”. Simply put, the decision forced all states and the Federal Government to recognize and grant marriage rights to all United States citizens, including same-sex couples. The Court determined that marriage is a fundamental right and is guaranteed to same-sex couples under both the Due Process Clause, and the 14<sup>th</sup> Amendment to the United States Constitution. While the subject of same-sex marriage is still one that divides much of the country, the decision itself was welcomed by many employers

because it cleared up many problems employers faced in giving out benefits and legal recognition to same-sex couples – because of the morass of various state and Federal laws in place governing recognition of same-sex marriages.

Almost immediately the press began to focus on the fact that while governments could not discriminate against same-sex couples wanting to get married, employers were still allowed to discriminate against people based upon their sexual orientation<sup>ii</sup>. This was considered by many to be the next major battlefield in the fight for gay, lesbian, and transgender rights.

However, within one month, on June 15 2015, the EEOC issued a ruling stating that discrimination – by employers – based upon sexual orientation, was against the law under Title VII of the Civil Rights Act of 1964. The conservative press pounced upon that ruling and claimed that the EEOC was interpreting law – or creating law – where it had no authority to do so<sup>iii</sup>. While on the surface these pieces may sound convincing, as the Civil Rights Act of 1964 does not mention sexual orientation, the reality is that the United States Supreme Court had already ruled 17 years earlier in Oncale v. Sundowner that discrimination in the workplace based upon sexual orientation, or even perceived sexual orientation, was a violation of Title VII of the Civil Rights Act of 1964<sup>iv</sup>. Thus the EEOC was correct in its interpretation of Title VII of the Civil Rights Act of 1964, because it was merely restating what the United States Supreme Court had already said.

A look at the facts surrounding the Oncale decision is required to understand how this sweeping Supreme Court decision went largely under the radar for 17 years. First and foremost, Joseph Oncale was not gay. Nor were the men that were harassing him. Oncale was listed in the court

records as a somewhat smaller male who worked on an oil platform in the Gulf of Mexico. Because of his smaller stature and mannerisms, he was subject to anti-gay harassment by his all-male coworkers, up to and including threats of homosexual rape. He complained about this activity to his supervisors, who told him he would just have to put up with it or quit. He quit and then sued. The District Court ruled he had no cause of action and same gender and orientation sexual harassment or discrimination was not a cause of action under the law. The Court of Appeals for the Fifth Circuit followed suit and issued the same ruling. However when the case was filed in the United States Supreme Court, on Writ of Certiorari<sup>v</sup> the Court ruled without any other formal pleadings or oral arguments, that the rule of law was so overwhelmingly clear, “Because we conclude that sex discrimination consisting of same-sex sexual harassment is actionable under Title VII, the judgment of the Court of Appeals for the Fifth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.”<sup>vi</sup>

It is important to note not just the ruling itself, but factors that show the force that the US Supreme Court issued this decision with. These are:

1. This decision was issued on Writ Of Certiorari. Once the Justices saw the history of the case, they determined that the District Court and Court of Appeals were totally wrong in their determination that Title VII did not cover sexual orientation discrimination, thus no further proceedings were necessary except to overrule the lower courts.
2. This decision was unanimous. All nine justices, whether conservative liberal or somewhere in between, felt that sexual harassment even amongst members of the same gender was protected by Title VII.

3. This decision was only seven pages long. It was to the point—Title VII covers discrimination based upon “sex” and any other interpretation is wrong.

Thus, since the Oncale decision in March 1998, it has been illegal to discriminate against an employee because of their sexual orientation or even perceived sexual orientation. Because of the fact that Mr. Oncale was not homosexual, and because of how the Supreme Court decided the decision (on Certiorari and without arguments), this case and the protection given to sexual orientation had largely gone unknown or misunderstood by much of the legal community and employment professionals.

It is true that the Oncale decision did not specifically mention transgender people. However based upon the rule of law and interpretation of Title VII given in Oncale, it is incredibly doubtful that the Court would carve out an exception stating that Title VII did not apply to people whose gender identity or expression did not match their “birth” sex. Further, while it is true that Title VII uses the word “sex” and not “gender” the Court had previously ruled in Price Waterhouse v. Hopkins<sup>vii</sup> that the word “sex” in Title VII also meant “gender”.

It is true that there is at least one Federal Circuit Court of Appeals has ruled that Title VII did not apply to transgender people, and instead only applied to “traditional” notions of gender<sup>viii</sup>.

However, that decision predates Price Waterhouse and Oncale, and is over three decades old.

Further at least one other Circuit has extended Title VII protections to transgender people<sup>ix</sup>.

### [Enter the EEOC--Heavily](#)

Despite the fact that the Supreme Court has not yet wrestled with the issue of whether or not Title VII does in fact apply to transgender people, in 2012 the EEOC issued a decision in Macy

v. Holder that Title VII prohibited “discrimination based on gender identity, change of sex, and or transgender status.”<sup>x</sup> The reasoning in Macy v. Holder was very straightforward – since Price Waterhouse stated that Title VII prohibited an employer from taking gender into account for making decisions about employees, and employer is precluded from taking into account and employee’s gender, perceived gender, or how an employee fits into traditional notions of gender norms. If the law prevents an employer from taking the employee’s gender into account in making decisions, an employer may not take into account what gender the employer thinks the employee should be.

Since that time, there have been several EEOC rulings stating that Title VII prohibits discrimination against transgender individuals. Part of this increase in EEOC cases is the result of the EEOC 2013-2016 Strategic Enforcement Plan (SEP) which listed as its third highest priority issues relating to “coverage of lesbian, gay, bisexual and transgender individuals under Title VII’s sex discrimination provisions.” This has increased the EEOC enforcement of transgender rights to the point where it is taking action in cases involving intentional misuse of an employee’s new name and gender pronoun<sup>xi</sup>, and failing to update employee records as to the employee’s new gender<sup>xii</sup>.

Additionally, the Department of Justice announced in December of 2014 that its litigation position is that Title VII extends to discrimination claims including transgender status<sup>xiii</sup>. The position of the EEOC and the Attorney General of the United States is that the previously mentioned cases (and others) mandated that Title VII precluded any form of gender discrimination against transgender people.



Until the United States Supreme Court addresses the issue directly, the educated and safest interpretation is that Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based upon sexual orientation or gender identity.

### [But what about bathrooms? Legislatures and OSHA weigh in.](#)

One would think in a society that first visited the moon almost 50 years ago, state legislatures would not be embroiled in bitter fights, pulling in major interested parties from around the country, to argue and threaten national boycotts over the “need” for laws that forced transgender people to use the public toilet of their birth—but that is where American society is at as of the time of this writing<sup>xiv</sup>. States are proposing laws that protect transgender rights, and other states are proposing laws that require transgender people to use the, “bathroom of their birth sex.” Part of the reason for this hysteria is that American society has been raised with rigid notions about gender identity and sex, and the bathroom is one of those “bright lines” that has been given an almost taboo status—one does not enter a public bathroom of the other gender except when it is required by work or safety concerns. Thus, this is actually one of the first conundrums that employers have when considering hiring a transgender person—not merely the bathroom accommodations, but perhaps more importantly, how will the other employees react when a transgender person comes into their workplace? The bathroom arrangements become a symbol of the discomfort people may have in terms of acceptance, and even knowing how to act in a civil manner towards a transgender person. And that is where HR education and guidance towards total workplace diversity acceptance is critical.

Additionally, if there should remain any doubt that employers must make reasonable accommodations for transgender employees, OSHA has released a Best Practices paper entitled

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“A Guide to Restroom Access for Transgender Workers”<sup>xv</sup>. In that document OSHA spells out its belief – in accordance with the office of the President of the United States’ opinion – that Title VII applies to transgender people and workplace accommodations. It also states the OSHA position that restroom access that respects transgender people is a health and safety matter which falls under OSHA’s Sanitation Standard<sup>xvi</sup>. In doing so OSHA has made clear its position that restroom accommodations for transgender people (discussed below) is something that employers must provide or face sanctions for violating.

## Frequently Used Terminology

With any dimension of diversity, it is important for all those involved to use a common, respectful language. Here is a list from the *Human Rights Campaign* of commonly used terms and their definitions when referencing the transgender community<sup>xvii</sup>.

- **Gender identity:** a deeply held, psychological identification as man, woman or some other gender. This can be different than the sex that a person has at birth (male or female).
- **Sexual orientation:** Simply, who a person loves and is sexually attracted to, could be binary like homosexual, heterosexual or bi-sexual or non-binary like pansexual.
- **Gender expression:** The external manifestation of a person’s gender identity. Often considered how someone dresses, speaks and carries themselves.
- **Gender Dysphoria:** The clinical diagnosis that is associated with the distress caused by gender nonconformity. According to the American Psychiatric Association DSM-5, gender nonconformity itself is not a mental disorder<sup>xviii</sup>.

- **Transgender:** an umbrella term used by people whose gender identity or gender expression do not match the sex assigned to them at birth.
- **Transition:** is the process that some transgender people go through to begin living as the gender they identify with and not the sex they were assigned at birth. This is a deeply personal journey and is different for every person. It is important to note that transitioning is a process, and if a person lives their authentic lives in one setting (with friends) that doesn't necessarily mean they have transitioned in other areas of their life (work, church, etc.). This process may or may not include medical treatments like gender reassignment surgery or hormone therapy.

## Use of Pronouns

For many, the use of the proper pronouns is taken for granted but this is a major issue for the transgender community and as previously mentioned, must be taken seriously by employers. The best practice is, when unsure, respectfully ask the individual their name and what pronoun they would prefer. Terms like *he-she*, *it* or *transvestite* are highly offensive and if used by any of your employees, can put your company in legal risk for a hostile work environment lawsuit.

## Including the Transgender Employee.

The National Gay and Lesbian Task Force and the National Center for Transgender Equality recently conducted a survey of more than 6,400 transgender and gender non-conforming individuals. Nearly 47% of survey respondents had experienced an adverse job outcome like being fired, not hired or denied a promotion because of their gender identity. A full 71% attempted to avoid discrimination by hiding their gender identity and 57% said that they delayed

their gender transition because of the fear of discrimination<sup>xix</sup>. These statistics show the need to create a welcoming and inclusive workplace for all, including the transgender community. The following sections will outline the steps that a company should take when working to create an inclusive culture that accommodates transgender employees.

## Inclusive Policies

Official policies need to be reviewed regularly to make sure they are in line with the most current diversity-related policies. Transgender-inclusive policies should be focused on providing equal employment opportunity (i.e. non-discrimination and harassment free workplace), protection from retaliation by other employees, and health insurance policies<sup>xx</sup>. It is beneficial to have progressive policies in place long before an employee decides to transition their gender identity at work. Clear policies can help make the transition process easier, and policies can provide official ground to fall back on if faced with opposition from others during an employee's transition process. Health insurance policies should be reviewed to see if they provide benefits for someone diagnosed with Gender Dysphoria. Other policies to review include privacy, leave and time-off policies to make sure they are as inclusive as possible for all dimensions of diversity. Having inclusive policies do not just benefit transgender employees but can create a more accepting culture to all of your employees' unique lives.

## Transition Planning

Once policies are in place and a regular review process has been created to make sure they stay up to date, a transition plan should be created well before an employee approaches HR about transitioning at work. These are difficult conversations to have for everyone and planning allows

for HR staff and leaders to become comfortable with the topic beforehand. A primary factor to consider when creating a transition plan is that every transition process will be different, and should be directed in large part by the transitioning employee in a way that ensures the employee's privacy. The plan should be guided by HR, senior leadership and best practices in law and from LGBT advocacy organizations. Out and Equal, an organization that advocates for the workplace rights of transgender people, even recommends having a transition liaison within the company that acts as the "go-to" person when an employee decides to transition. This person would activate a team that is prepared to help with the transition process. There are many factors to consider for a transition plan, including announcement to their co-workers and other stakeholders, changes to internal records, dress code, use of gender-specific facilities and other logistics. Even having a basic plan ready in advance will help to ensure that these important steps are not forgotten.

### Communications Plan

This plan should consider how leadership, co-workers and subordinates will be told of an employee's transition. Steps for education about the transgender community should be included in this timeline, with an opportunity for employees to ask candid questions and share concerns. Candor is appreciated but must be facilitated while emphasizing a company's commitment to inclusion. This can be a difficult conversation for many who feel that their religion or core beliefs are being challenged by their co-worker's change. Creating an environment where employees can ask questions and learn about gender identity before the transition begins may help to mitigate some of this negativity. Experts agree that these conversations should be conducted in person and, if they are agreeable, without the transgender employee in the room. It

is also important to reinforce that while not everyone may agree with their co-worker, they are expected to treat them with respect as all employees are expected to treat everyone with respect. The planning should also include notifying external stakeholders that the employee interacts on a regular basis. This might include customers, clients, community partners, etc., all should be informed of the employee's transition and how it aligns with the company's values of inclusion (*see supra note XX*). Just as transitioning is a process for the employee, it is also a process for the organization--there are going to be some awkward moments but the more that is planned ahead, the better the process will be for all involved.

### Changes to Internal Records

This can be a very complicated aspect of transition. States across the country have varying rules for when a transgender person can change their official sex. Some states like Michigan require individuals to have completed gender reassignment surgery before a birth certificate can be updated<sup>xxi</sup>, while others like Ohio have created special forms that have to be completed with a physician's sign-off on a gender transition in order to update a birth certificate<sup>xxii</sup>. Under Federal Law, transgender people can have the gender changed on their passport with a doctor's confirmation that they have undergone "appropriate clinical treatment for gender transition."<sup>xxiii</sup> Despite this patchwork of state laws, internal records can be less rigid. Name changes in the directory, email address changes, updates to the website and business cards should all be part of the process once an employee decides to transition. It is best if these records are updated and ready on the date that the team has decided for the transition to be official. Records that are required to be aligned with a social security card or driver's license—such as paychecks or tax documents will have to wait until those records can be updated with the state agency.

## Dress and Appearance Expectations

This step in the planning process should be handled on a case by case basis but should be discussed in the development of a transition plan. If the transitioning employee's job already comes with a set of dress and appearance expectations, they can be required to follow the dress code established for the gender they identify as. Once the employee decides to start presenting as their gender identity, it may take some time for co-workers to become accustomed to their changes. This should be a part of the initial conversation held with colleagues before the actual transition begins, and facilitators should be ready to address questions on this topic specifically.

## Restroom and Changing Facilities

This is probably the most contentious and emotional topic for co-workers of newly transitioned transgender employees. Bathrooms have become a divisive focus in the political world but the laws are straightforward. Per the EEOC and OSHA, people have a right to safe bathroom facilities and transgender employees must be provided the same level of facilities as their coworkers. This also means that a transgender employee cannot be forced to use one facility over another (for example an employer cannot force someone to use a gender neutral restroom).

While the law is on the transgender employee's side, the opinion of co-workers may not be initially. This should be a part of the initial transitioning conversation and needs to have strong leadership support for the importance of equal access.

One solution to the bathroom issue at work is to let the transgender employee choose which they prefer to use. If other employees are not comfortable with their choice, then setting up a gender neutral bathroom (a single occupancy unit with an "Occupied" sign and locking door) will resolve the problem so that either the transgender employee may choose to use this facility or

other employees uncomfortable with the transition can use it. Whatever solution works best, care must be taken to make sure those facilities are comparable to other restrooms, and present a positive image.

## About Costs and Benefits

A concern over the implementation of any new workplace policy or program is the costs, and will the benefits outweigh such. According to a scientific opinion poll released in June of 2013 by the organization Small Business Majority, accommodating transgender people in the workplace had costs 86% of businesses “nothing or next to nothing.”<sup>xxiv</sup> Further, only 2% reported small but significant costs, and none reported substantial costs. The small businesses polled in the survey reported that 59% of them felt that policies prohibiting anti-discrimination policies protecting transgender people would help a business boost the bottom line by allowing them to recruit the best people, and 37% said that their own transgender inclusive policies had in fact allowed them to improve their talent pool by aiding in recruiting the best and brightest people.

Additionally, in Executive Order 13672, President Obama signed into law an extension of prior Executive Orders (dating back to President Johnson) which extended Federal protection to transgender people by requiring most Federal contractors to not discriminate against transgender people<sup>xxv</sup>. Thus, any business wishing to contract with the US Government must either provide a transgender-friendly work environment or fit into a narrow set of exceptions. Additionally, there is pressure on Federal Government contractors is to only deal with suppliers that adhere to all anti-discriminatory policies. Thus, even companies without Federal Government contracts may



lose contracts with Federal Government suppliers if their own policies do not protect transgender people.

### Younger Employees Weigh In

We are often asked, “How many people do transgender-inclusive policies really effect?” This question is based on the conception that the percentage of the population who are transgender is so small and there are much bigger issues that HR practitioners should be focused on. While it is true that only about .3% of the U.S. population identify as transgender (about 700,000 people)<sup>xxvi</sup>, policies recommended in this report can have a much bigger impact than on transgender individuals alone. Creating a transgender-inclusive company culture allows organizations to convey their ideals to the outside world and most importantly to potential employees, customers, and vendors-- especially to those who are a part of the Millennial Generation and Generation Z (as discussed below). Transgender inclusive policies do not just impact transgender people, they are larger indications of the organization’s real culture. The recent negative economic backlash experienced by states like Indiana, North Carolina and Mississippi after passing strict transgender related laws clearly show that consumers and companies care about inclusive policies and will fight for them.

### Public Perception of Gender

According to a January 2015 survey of Millennials performed by the Benson Strategy Group<sup>xxvii</sup>, over half of adults under the age of 30 felt that, “gender is a spectrum, and some people fall outside conventional categories”. Further, a recent poll conducted by the Huffington Post and Yougov Poll found that 54% of the respondents aged between 18 and 29 felt that people should

be permitted to use the restroom of their chosen gender identity<sup>xxviii</sup>. These statistics are especially important because Millennials and Generation Z employees<sup>xxix</sup> want to work for an employer that shares their political and social views, and advances those social views, and will leave a company that does not fit their worldview or social ambitions<sup>xxx</sup>. Employers which embrace progressive attitudes will find their younger workers more loyal. Employers which do not embrace progressive attitudes will alienate their younger employees and face higher employee turnover of this critical segment. As such it is critical for an employer to not merely provide legally required accommodations to transgender employees, but to instead go beyond the minimum and embrace gender diversity, along with all diversity, as a corporate aspirational goal.

## A Call for Action

While it is true that many companies might not soon face hiring a transgender employee, or soon have an employee that transitions, the best time to plan for such issues is before they arise, which means now is probably the best time. Preliminary plans and protocols should be outlined and formed into policy. Those policies should be communicated to employees immediately so that the company's dedication to supporting the diversity of all employees is unequivocally set. This will not only make a possible transition situation flow smoother, but will prepare employees—and managers—for acceptable responses if such a situation occurs.

Further, as touched on above, the majority of younger employees feel strongly in favor of transgender rights. Adopting transgender friendly policies is likely to make them feel that they are working for an employer who cares about all employees, and wants to make the world a

better place for all people. Even if there are no transgender employees in a workplace yet, simply having the policies in place will yield positive dividends with the younger employees.

Lastly, the EEOC and OSHA has made it clear that this is an important issue to them. Even if an employer never has a transgender employee to accommodate, the inclusion of transgender inclusive policies could demonstrate that the company considers diversity and inclusion a top priority. Better to have those policies in place now than to have an EEOC investigator, working on another matter, notice the lack of any such policies and take legal action.

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### **Endnotes, Statutes, and Cases**

<sup>i</sup> Obergefell v. Hodges, 576 U.S. \_\_\_\_ (2015)

<sup>ii</sup> Phelps, Timothy, "Next frontier for gays is employment and housing discrimination", Los Angeles Times, June 26, 2015; DePillis, Lidia, "This is the next front in the battle for gay rights: LGBTQ Americans still lack protection against discrimination in the workplace", the Washington Post, June 26, 2015; Hauer, Sarah, "Mark Pocan says most states don't have workplace protection from sexual orientation discrimination", PolitiFact Wisconsin, June 26, 2015.

<sup>iii</sup> Mataconis, Doug, "EEOC Finds That a 50-year-old Law Bans Something It Doesn't Even Mention", Outside the Beltway, July 17, 2015; Bader, Hans, "EEOC Legislates New Federal Ban on Discrimination Based on Sexual Orientation", Competitive Enterprise Institute, July 17, 2015; Shackelford, Scott, "EEOC Attempts to Administratively Implement Protections against Anti-Gay Discrimination", Reason.com, July 17, 2015.

<sup>iv</sup> Oncale v. Sundowner Offshore Services, Inc. (96-568) 83 F.3d 118

<sup>v</sup> A formal request to even have one's case considered by the US Supreme Court, as such is not a right.

<sup>vi</sup> Id.

<sup>vii</sup> Price Waterhouse v. Hopkins, 490 U.S. 228 (1989)

<sup>viii</sup> Ulane v. Eastern Airlines, 742 F.2d 1081, (7<sup>th</sup> Cir. 1984)

<sup>ix</sup> Smith v. City of Salem, 378 F.3d 566 (6<sup>th</sup> Cir. 2004), Barnes v. City of Cincinnati, 401 F.3d 729, 733 (6<sup>th</sup> Cir. 2005),

<sup>x</sup> Macy v. Holder, Appeal No. 0120120821 (Apr. 20, 2012).

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<sup>xi</sup> Jameson v. U.S. Postal Service, EEOC Appeal No. 0120130992, 2013 WL 2368729 (May 21, 2013)

<sup>xii</sup> Complainant v. Department of Veterans Affairs, EEOC Appeal No. 0120133123, 2014 WL 1653484 (Apr.16, 2014)

<sup>xiii</sup> Memorandum from Attorney General Holder. to U.S. Attorneys regarding Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964 (Dec. 15, 2014), At [https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/18/title\\_vii\\_memo.pdf](https://www.justice.gov/sites/default/files/opa/press-releases/attachments/2014/12/18/title_vii_memo.pdf)

<sup>xiv</sup> Wells, Kate, “Republican lawmaker wants to ban transgender students from bathrooms of their choice”, Michigan Public Radio, Mar 28, 2016; Pearce, Matt and Jarvie, Jenny, “Gay, transgender rights battles in Georgia, N. Carolina part of unfinished legacy of Supreme Court ruling”, The Seattle Times, March 28, 2016; Dalesio, Emery and Robertson, Gary, “Major businesses stand against NC anti-discrimination law”, The Washington Post, March 24, 2016.

<sup>xv</sup> OSHA, A Guide to Restroom Access for Transgender Workers” , Best Practices #3795, <https://www.osha.gov/Publications/OSHA3795.pdf>.

<sup>xvi</sup> Code of Federal Regulations, 29 CFR 1910. 141(a), [https://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=STANDARDS&p\\_id=9790](https://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=STANDARDS&p_id=9790)

<sup>xvii</sup> “Transgender FAQ” Human Rights Campaign. <http://www.hrc.org/resources/transgender-faq>

<sup>xviii</sup> “Gender Dysphoria Fact Sheet”, American Psychiatric Association, 2013.

<http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf>

<sup>xix</sup> Grant, Mottet, Tannis, “Injustice at Every Turn”, A Report of the National Transgender Discrimination Survey , 2011,

[http://www.thetaskforce.org/static\\_html/downloads/reports/reports/ntds\\_full.pdf](http://www.thetaskforce.org/static_html/downloads/reports/reports/ntds_full.pdf)

<sup>xx</sup> Out and Equal Workplace Advocates. “Workplace Gender Identity and Transition Guidelines”. <http://www.outandequal.org/resources/workplace-transition-guidelines/>

<sup>xxi</sup> “ID Documents Center – Michigan”, National Center for Transgender Equality.

<http://www.transequality.org/documents/state/michigan>

<sup>xxii</sup> “Declaration of Gender Change” Form. State of Ohio Department of Public Safety.

<http://ai.eecs.umich.edu/people/conway/TS/News/US/OhioBMVGenderChangeForm2009.pdf>

<sup>xxiii</sup> “Know Your Rights – Passports”. National Center for Transgender Equality.

<http://www.transequality.org/know-your-rights/passports>

<sup>xxiv</sup> Opinion Poll, “Small Businesses Support Workplace Nondiscrimination Policies”, Small Business Majority, June 4, 2013. <http://www.smallbusinessmajority.org/small-business-research/downloads/060413-workplace-nondiscrimination-poll-report.pdf>

<sup>xxv</sup> Obama, Barack, “Executive Order 13672 of July 21, 2014”,

<https://www.gpo.gov/fdsys/pkg/FR-2014-07-23/pdf/2014-17522.pdf>

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<sup>xxvi</sup> Gates, Gary J., "How Many People are Lesbian, Gay, Bisexual and Transgender?" The Williams Institute, UCLA, April 2011. <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf>

<sup>xxvii</sup> Benson Strategy Group, "Massive Millennial Poll", January, 2015, <http://fusion.net/series/massive-millennial-poll/>

<sup>xxviii</sup> Schapiro, Lila, "The Kids Are All Right with Transgender Rights", The Huffington Post, February 28, 2015, updated February 2, 2016,

[http://www.huffingtonpost.com/2015/02/28/young-people-transgender-rights\\_n\\_6770174.html](http://www.huffingtonpost.com/2015/02/28/young-people-transgender-rights_n_6770174.html)

<sup>xxix</sup> For purposes of this paper both Millennials and Generation Z are being treated as a single group.

<sup>xxx</sup> Moore, Karl, "Millennials Work for Purpose, Not Paycheck", Forbes, October 2, 2014. See also: Leibowitz, Shana, "Here's a Key Reason Millennials Are Leaving Their Companies in Doves", Business Insider, February 16, 2016; Cusanelli, Michael, "The Millennial Report: Finding Work You Love, Not Work You Tolerate", The VAR Guy, February 8, 2016.