Compliance Guidelines

to Prohibit

Gender Identity Discrimination

San Francisco Administrative Code Chapter 12A, 12B, 12C
San Francisco Municipal/Police Code Article 33

City and County of San Francisco

Human Rights Commission

25 Van Ness Ave, Suite 800
San Francisco, CA 94102-6033

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I. PURPOSE

It is the law and policy of the City and County of San Francisco to eliminate discrimination based on gender identity in San Francisco and in City & County of San Francisco contracting.

The Human Rights Commission developed these guidelines to:

A. Implement the provisions of San Francisco Administrative Code Chapters 12A, 12B, 12C and San Francisco Police Code Article 33 regarding discrimination complaints based on gender identity;

B. Create a flexible implementation plan designed to provide guidance to agencies, business establishments and organizations seeking to comply with the law.

II. DEFINITIONS

The following definitions will apply in the construction and implementing of the guidelines described herein:

A. Gender Identity
   “Gender identity” will mean a person’s various individual attributes as they are understood to be male and/or female.

B. Transgender
   “Transgender” is used as an umbrella term that includes female and male cross dressers, transvestites, drag queens or kings, female and male impersonators, intersexed individuals, pre-operative, post-operative and non-operative transsexuals, masculine females, feminine males, all persons whose perceived gender or anatomic sex may be incongruent with their gender expression, and all persons exhibiting gender characteristics and identities which are perceived to be androgy nous.

   1. Female or Male Cross Dressers
      “Female or Male Cross Dressers” refers to individuals who occasionally wear clothing that is perceived to be conflicting with their anatomical genital structure.

   2. Transvestites
      “Transvestites” are synonymous with female or male cross dressers who are heterosexual.

   3. Drag Queens or Kings
      “Drag Queens or Kings” refers to female or male cross dressers who are lesbian, gay, or bisexual.

   4. Female or Male Impersonators
      “Female or Male Impersonators” refers to individuals who impersonate a different gender for entertainment purposes.
C. Agency

Any non-profit or publicly owned organization providing services accessible to the public, including but not limited to, psychiatric institutions, AIDS service organizations, medical and dental offices, housing agencies, and jails.

III. CONDUCT AND DEMEANOR

A. The agency, business establishment, or organization will make reasonable effort to serve male-to-female transsexuals equitably with other women, and female-to-male transsexuals equitably with other men. The agency, business establishment or organization will make every effort to provide appropriate and equitable treatment to transgressed individuals regardless of where they are on the continuum of gender identity transition. Masculine females who express a female gender identity should be treated as women; feminine males who express a male gender identity should be treated as men.

B. The Human Rights Commission recommends that agencies, business establishments, and organizations require all staff, administration and employees to receive continuing education in gender identity related issues.

C. City contractors must, and agencies, business establishments, and organizations should clearly communicate this non-discrimination policy regarding gender identity to all staff, administration, employees and clients.

D. Any individual, employer, agency, landlord, or business establishment, will not tolerate disrespectful language or behavior from its staff, administration, employees, customers or clients towards or about transgressed individuals.

1. Individuals have the right to be addressed with names, titles, pronouns and other terms indicating gender based on their gender identity. The refusal of employers, co-workers, business owners and other persons to address individuals based on their gender identity is a form of harassment.

2. The gender identity of a person, except as legally required, may not be questioned. Someone who is perceived to be transgressed may not be placed in a situation where the person will have to unwillingly reveal his or her congenital reproductive anatomy. Challenging someone's gender may be considered as harassment, and an invasion of privacy.

3. It is a form of harassment to make and act upon assumptions about an individual's sexual orientation based upon that individual's gender attributes or identity.

IV. SEX-SPECIFIC FACILITIES, SERVICES AND REGULATIONS

A. The agency, business establishment, or organization will make reasonable efforts to serve male-to-female transsexuals equitably with other women, and female-to-male transsexuals equitably with other
organization can demonstrate that the accommodation would impose an undue and intolerable economic hardship on its operation or can demonstrate that the assertion of a particular gender identity is intended to avoid criminal prosecution, defeat creditors, unlawfully claim inheritance or to otherwise defraud.

V. EMPLOYMENT

A. Employers may not discriminate against any individual in any aspect of employment including but not limited to, recruitment, selection, hiring, wages, hours and conditions of employment, promotion, training, development, and evaluation of its employees based upon the individual’s publicly and exclusively asserted gender identity, or any declaration of intention to change the individual’s perceived gender.

B. Transgendered employees may not be discriminated against in the provision, eligibility or utilization of employee health, welfare or vacation benefits and programs.

C. Employers have the right to implement employee dress codes including those according to gender. Transsexual employees have the right to comply with sex-specific dress codes according to their gender identity.

D. An employee’s gender identity or intention to undergo treatment may not be cause for dismissal or refusal to hire.

For further assistance please call the Human Rights Commission at 415.252.2500 (main number) or 415.252.2550 (TTY/TDD) and ask for the Lesbian Gay Bisexual Transgender and HIV Unit.