



# Welcome to the Gender Expression Toolkit

*Ending Discrimination on the Basis of Gender Expression*

## CONTENTS

A LETTER FROM EXECUTIVE DIRECTOR MARY LOU MAKEPEACE ON GENDER EXPRESSION.....	2
IMPORTANT INFORMATION ON GENDER EXPRESSION AND EMPLOYMENT NONDISCRIMINATION .....	3
APPENDIX A: GLOSSARY OF TERMS.....	6
APPENDIX B: SAMPLE ORGANIZATIONAL NONDISCRIMINATION POLICY .....	8
APPENDIX C: PROVIDING SAFE AND SECURE RESTROOM FACILITIES FOR ALL PEOPLE.....	9
APPENDIX D: COLORADO’S EMPLOYMENT NONDISCRIMINATION ACT .....	10
APPENDIX E: ADDITIONAL RESOURCES AND LINKS FOR GENDER EXPRESSION .....	11

## A LETTER FROM EXECUTIVE DIRECTOR MARY LOU MAKEPEACE ON GENDER EXPRESSION

Dear Friend,

As a leading proponent of equality for all people of Colorado, the Gay & Lesbian Fund has a responsibility to assist nonprofits in addressing issues of diversity and raising awareness about the inequality that continues to plague many organizations and individuals in our state. There is much work to be done to secure a completely fair and equal Colorado for all people who live here. That said, there are some bright spots with regard to progress that has been made. I want to bring to your attention the passage of several important laws that have passed within the last two years.

Colorado's Employment Nondiscrimination Act (ENDA), passed in May of 2007, makes it unlawful for an employer to discriminate based on sexual orientation or gender expression. Passage of this important legislation makes it both an ethical and legal imperative to include these terms in your organizational nondiscrimination policies. In May 2008, these protections were expanded by the passage of the Colorado Anti-Discrimination Act, which prohibits discrimination on the basis of sexual orientation or transgender status in housing and public accommodations – such as hotels and restaurants. These are important to securing a high quality of life for gay and transgender people when it comes to basic freedoms in daily life.

A workplace and a business community that foster an open environment and embrace employees, consumers and patrons for who they are as unique individuals are more productive than the alternative (discrimination). We invite you to join us in this step toward creating inclusive work environments and business environments throughout the nonprofit community. I know we can achieve this as individual organizations. As a collective, our efforts will become even stronger and will be felt more effectively by the people who makeup our organizations – our employees, our volunteers, our clients, our partners, and our vendors.

To assist in moving this effort forward, we have included information about developing an inclusive organizational nondiscrimination policy. We hope you will find it useful in reviewing and modifying your organization's policies and practices.

Beginning January 2008, we began asking all organizations receiving funds from the Gay & Lesbian Fund for Colorado to work to include both sexual orientation and gender expression in their organizational policies. This has become a requirement in 2009.

Our ultimate goal is that people throughout Colorado who benefit from your good works will realize that equal treatment of all people is a critically important value of yours – and of the Gay & Lesbian Fund. If you have additional ideas for ways we can propel this movement even further, I encourage you to share them with me and welcome your thoughts.

Warm regards,  
Mary Lou Makepeace

## IMPORTANT INFORMATION ON GENDER EXPRESSION AND EMPLOYMENT NONDISCRIMINATION

### *Why It's Important to Protect Employees Who Don't Conform to Gender Stereotypes in the Workplace*

#### **What Is Gender Expression?**

“Gender expression” refers to the ways in which we each manifest masculinity or femininity. It is usually an extension of our “gender identity,” our innate sense of being male or female. Each of us expresses a particular gender every day – by the way we style our hair, select our clothing, or even the way we stand. Our appearance, speech, behavior, movement, and other factors all signal others that we are feeling – and wish to be understood – as masculine or feminine, or as a man or a woman.

For some of us, our gender expression may not match our biological sex. That is, while other people see us as being male or female, we may or may not fit their expectations of masculinity or femininity because of the way we look, act, or dress.

People whose gender expression is not what we might expect represent many different backgrounds – their age, sex, racial or ethnic group, or sexual orientation has no bearing on their gender expression.

#### **Valuing Differences to Support Growth**

Diversity leaders – ranging from the likes of CitiGroup, IBM, and JP Morgan Chase to Chevron, Microsoft, and Raytheon – have at least one thing in common: they have all found that diversity pays!

In today’s economy, the most strategic, conscious, goal-driven organizations will enjoy the most success. And to maintain their success, organizations must be able to constantly compete for the best talent. This means attracting the most diverse workforce offering the broadest range of expertise and backgrounds – and then protecting those talents in order to retain that workforce.

There is an increasing body of research that shows that in today’s “knowledge economy,” the best and brightest workers are attracted to workplaces that are rich in difference, diversity, and respect for personal expression.

Employees who are free to be honest and open about who they are can put their full energy into their jobs. And when harassment and discrimination are absent from the workplace, employees are less likely to expend valuable company resources by taking sick days, engaging in internal disagreements, requesting transfers, or in the most severe circumstances, filing discrimination suits.

Organizations that value human differences will go beyond complying with Colorado state law when it comes to including sexual orientation in their employment discrimination policies. They will extend the same courtesy and respect to vendors, customers, volunteers, and contractors, guaranteeing that everyone who has dealings with the organization has fair and equal treatment.

## **Trading Exclusion for Nondiscrimination**

Many organizations recognize that exclusion of people based on their differences creates division among employees and thereby diminishes productivity and work satisfaction. For these reasons, and perhaps because they feel a natural obligation to treat all employees equally, many organizations include nondiscrimination language in their organizational policies and practices. Such organizational policies include language prohibiting discrimination based on race, religion, gender, age, or sexual orientation.

Unfortunately, these policies are inadequate for employees who are not covered by those categories. In particular, individuals who do not conform to gender stereotypes are not protected or recognized by many organizations and, as a result, become marginalized employees.

## **Why Do Employees Need Our Help?**

Employees who express gender outside of societal stereotypes struggle with a number of conflicting decisions at work on a daily basis: which restroom to use, which uniform to wear, when, how, or even whether to inform employers that they are transgender. Additionally, they face verbal abuse, such as name-calling and taunting; denials of promotions; punishment for expressing a gender identity outside an employer's expectation; requirements to wear the uniform of their non-preferred gender; and in rare cases, physical abuse by co-workers. Also, despite legislation in many states designed to protect employees from such harassment, only six of the thirty-one Employment Nondiscrimination Acts (ENDAs) currently in place include gender expression and a few ENDAs allow certain types of employers exemptions from the law.

## **Discrimination Is a Real Problem**

The relevance of these issues is clear. As recently as February 2007, the city of Largo, Florida, dismissed its city manager after fourteen years of dedicated service when he disclosed he was planning on undergoing gender-reassignment surgery. Despite the support of Largo's citizens and a history of superior service, the city manager was let go because of his nonconforming gender identity.

The city manager was not alone. Studies have shown that employees who do not adhere to gender stereotypes frequently switch employers in order to avoid issues in the workplace. According to the National Gay & Lesbian Task Force (NGLTF), 60 percent of all transgender people have been victimized by hate violence. Additionally, on average, one transgender person is murdered in the United States each month.

## **What Organizations Have the Power to Do**

A number of organizations have taken the initial step to secure rights for transgender individuals, and should serve as models of change. By incorporating terms such as "gender identity" or "gender expression" into their organizational policies and practices, companies including, IBM, American Airlines, J.P. Morgan, Nike, Xerox, Lucent Technologies, Hewlett-Packard, and the United States Postal Service, have made strides toward protecting their diverse workforces, volunteers, customers, and all other people that nondiscrimination policies seek to protect.

By not including these important terms in organizational policies, employers threaten to perpetuate rather than eliminate the discrimination we seek to abolish. As a society, we can all work in cohesion to do away with discrimination against our fellow citizens.

## **Colorado's Employment Nondiscrimination Act**

On May 25, 2007, Governor Bill Ritter signed Senate Bill 07-025, expanding Colorado's employment nondiscrimination protections to include sexual orientation. This law defines sexual orientation as a person's orientation toward heterosexuality, homosexuality, bisexuality, or transgender status. In

Colorado, the law is applicable to employers, employment agencies, labor organizations, on-the-job training, and vocational training programs and schools. The law makes it unlawful to consider sexual orientation, gender identity or expression when making employment-related decisions and additionally makes it unlawful to make any inquiry about an applicant's sexual orientation or gender expression.

In May 2008, the governor expanded these protections by passing the Colorado Anti-Discrimination Act, or Senate Bill 200, which prohibits discrimination on the basis of sexual orientation or transgender status in housing and public accommodations.

This law prohibits unfair housing practices on the basis of sexual orientation or transgender status. It applies to landlords, lessors, sellers, homeowner associations, lenders, real estate agencies, insurers, advertisers, cities, counties, government agencies, and others involved in showing, selling, renting, transferring, or leasing housing or residential real estate.

Covered public accommodations entities may not deny a gay or transgender person participation, entry, or services. A place of public accommodation is any place of business that offers sales or services of any kind to the public, or that offers facilities, privileges, advantages or other accommodations to the public, such as hotels, restaurants, stores, hospitals, clinics, and health clubs.

### **Take Action, Spark Change**

Discrimination based on gender expression is a problem in the workplace. Employers have the power to make the right decisions for their employees.

We at the Gay & Lesbian Fund for Colorado believe that the social cost of discrimination is much greater than the cost of inclusion. There are a number of measures organizations can adopt in order to create an inclusive environment:

- **Begin with an organizational nondiscrimination policy.**  
Use language such as: We do not discriminate with regard to race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, physical or mental ability, veteran status, military obligations, and marital status.
- **Create an open dialogue in the workplace that recognizes and values the inherent differences of all employees.**
- **Consider that individuals should be addressed with names, titles, pronouns, and other terms appropriate to their gender identity.**  
If an employee is uncertain about which name, pronoun (he/she, him/her), or title (Ms./Miss/Mrs./Mr.) to use while addressing a transgender person, it is generally appropriate to ask individuals what their preference is.
- **Provide gender neutral restrooms.**

The Gay & Lesbian Fund of Colorado wants you to take action and help spark change. Create an inclusive nondiscrimination policy. Ensure that your organizational nondiscrimination policy includes gender expression. Foster an environment where each of your employees' unique talents and differences will help promote growth. Protect those employees by using appropriate language in and around the workplace.

**Ask appropriate questions. Be patient. Take action.**

## APPENDIX A: GLOSSARY OF TERMS

**gay** The adjective used to describe people whose enduring physical, romantic, and emotional attractions are to people of the same gender (*gay men, gay people*). Many prefer *lesbian* to describe gay women. **Avoid** *homosexual*, an outdated clinical term that has become an anti-gay slur.

**lesbian** A woman whose enduring physical, romantic, and emotional attraction is to other women. Use as a noun to describe women (*a lesbian, lesbians*) or as an adjective in other contexts (*lesbian couple, lesbian fiction*).

**bisexual** The adjective used to describe a person who is capable of physical, romantic, emotional, and/or spiritual attraction to men and women (*bisexual people, bisexual woman*). The term *bi* can be helpful in contexts where an emphasis on sex is not appropriate.

**LGBT/GLBT** Acronyms often used for *lesbian, gay, bisexual, and transgender* because they are inclusive of the larger community. Explain the acronym before using with unfamiliar audiences.

**allies** Straight (or non-LGBT) people who respect, support, and defend LGBT people and who work actively to help eliminate prejudice and discrimination based on sexual orientation and/or gender expression.

**sexual orientation** The term for a person's attraction (emotional, physical, and romantic) to members of the same and/or opposite gender (*gay, straight, bisexual*).

**Avoid** *sexual preference* or *gay lifestyle*, inaccurate, offensive terms used to suggest that being gay is a choice.

**queer** Traditionally a pejorative term, queer has been reclaimed by some LGBT people to describe themselves. However, it is not universally accepted even among LGBT people and should be avoided except in discussions with people who identify as queer.

**coming out** A lifelong process of self acceptance. People forge a lesbian, gay, bisexual, or transgender identity first to themselves and then may reveal it to others. Publicly identifying one's own sexual orientation may not be part of coming out. LGBT people often begin by coming out to people they see as allies.

**questioning** Describes those who are in the process of understanding their sexual orientation or gender identity.

**closeted** When a person's sexual orientation, gender identity, or HIV/AIDS status is not widely or publicly known, he or she is said to be *closeted* or *in the closet*.

**outing** The act of publicly declaring someone else's sexual orientation or gender identity against his/her will. Considered offensive by many in the LGBT community.

**same-gender loving (SGL)** Used in some communities of color, this term refers to someone who experiences physical, romantic, and/or emotional attraction to people of the same gender. Do not use the term *gay* or *bisexual* to describe someone who identifies as same-gender loving.

**homophobia, biphobia, transphobia** Terms used to describe feelings of fear toward gay, bisexual, and transgender people. *Prejudice* or *intolerance* is usually a better description of broader anti-LGBT sentiment.

**transgender** An adjective to describe people whose gender identity and gender expression are different from the sex they were assigned at birth (*transgender people, transgender woman, transgender man*). Transgender people may be gay, lesbian, straight, or bisexual. Some people prefer the term **trans** because it is more inclusive of the wide range of transgender experiences. **Avoid** *transgenders* (noun) or *transgendered* (noun or adjective).

**gender identity** One's internal, personal sense of being a man or a woman (or a boy or a girl). For transgender people, their birth-assigned sex and their own internal sense of gender identity do not match.

**gender expression** Refers to the visible aspects (such as appearance, clothing, speech, and behavior) of a person's gender identity. Typically, transgender people seek to align their gender expression with their gender identity, rather than their birth-assigned sex. Employment policies that include gender expression are designed to protect those (including non-transgender people) who express their gender in ways that may not correspond with their biological sex.

**transition** Altering one's birth sex is not a one-step procedure but a complex process that occurs over a long period of time. Transition includes some or all of the following cultural, legal, and medical adjustments: telling one's family, friends, and/or co-workers; changing one's name and/or sex on legal documents; hormone therapy; and possibly (though not always) some form of surgical alteration.

**sex reassignment surgery (SRS)** Refers to surgical alteration, and is only one small part of gender transition. Not all transgender people choose to or can afford to have sex reassignment surgery. **Avoid** *sex-change operation*, an offensive, outdated term for SRS.

**cross-dressing** To occasionally wear clothes traditionally associated with people of the other sex. Cross-dressers are usually comfortable with the sex they were assigned at birth and do not wish to change it permanently. *Cross-*

*dresser* should not be used to describe someone who has transitioned to live full-time as the other sex or who intends to do so in the future.

---

**pronouns and names** It is important to use a transgender person's chosen name. Often transgender people cannot afford a legal name change or are not yet old enough to change their name legally. They should be afforded the same respect for their chosen name as anyone else who lives by a name other than their birth name (e.g., celebrities). **Never** put quotation marks around a transgender person's name.

We also encourage you to ask transgender people which pronoun they would like you to use (*he, him or his; she, her or hers*). A person who identifies as a certain gender, whether or not they have taken hormones or had surgery, should always be referred to using the pronouns appropriate for that gender.

## APPENDIX B: SAMPLE ORGANIZATIONAL NONDISCRIMINATION POLICY

### Nondiscrimination Policy Requirements and Sample

All proposals to the Gill Foundation and the Gay & Lesbian Fund for Colorado must include a board approved copy of the organization's nondiscrimination policy which is inclusive of both *sexual orientation* and *gender expression* as protected classes.

The following formats are the only acceptable documents for proof of a nondiscrimination policy that has the approval of your board of directors:

- Policy text is on organization's letterhead and is signed by board chair or executive director.
- Copy of policy text in organization's bylaws, employee manual, or other official source. Please include copy of relevant pages and highlight the policy text.

### Sample Nondiscrimination Policy

*This policy states [Organization Name]'s position on discrimination. This policy applies to all [Organization Name] employees, volunteers, members, clients, and contractors.*

*[Organization Name] follows an equal opportunity employment policy and employs personnel without regard to race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender expression, age, physical or mental ability, veteran status, military obligations, and marital status.*

*This policy also applies to internal promotions, training, opportunities for advancement, terminations, outside vendors, members and customers, service clients, use of contractors and consultants, and dealings with the general public.*

### **IMPORTANT: The following statements are not acceptable**

- We do not “unlawfully” discriminate with regard to race, religion, sexual orientation, gender expression, etc.
- In accordance with federal, state and local laws, we do not discriminate on the basis of race, religion, sexual orientation, gender expression, etc.

These statements are not acceptable because both reference laws that do not presently exist on a federal level. Since there are no federal laws that provide equal employment protections for gay men and lesbians, these statements void the equal opportunity employment clause.

Keep nondiscrimination statements broad by not listing specific numbered state or federal ordinances or laws as these may change. Also, make sure the policy will be enforceable on a national level, even if you are currently only a local or statewide organization with limited scope.

## APPENDIX C: PROVIDING SAFE AND SECURE RESTROOM FACILITIES FOR ALL PEOPLE

Restrooms should be a safe and private place for all people.

The Gay & Lesbian Fund and the Gill Foundation have adapted some of our own restrooms to be unassigned and equipped them with privacy locks to help ensure that everyone feels protected. Through this process we've found the following information helpful for our visitors.

“Did you know that some people may feel threatened or uncomfortable in multiple facility restrooms simply because of their gender expression?”


People who do not fit perceptions of how a man or woman should present themselves can be targets of discrimination and harassment in restroom facilities.

We have provided unassigned, locking restrooms so that people visiting the Gill Foundation and the Gay & Lesbian Fund feel protected.

It is our hope that other organizations might provide unassigned restrooms and/or single facility restrooms to ensure everyone's ability to safely use restroom facilities.”

If you'd like to understand more about why restrooms need to be safe places for all people, and how you might be able to make your own facilities safer places, consider resources such as the Sylvia Rivera Law Project's website ([www.srlp.org](http://www.srlp.org)) and the film by Tara Mateik, *Toilet Training*.

## APPENDIX D: COLORADO'S EMPLOYMENT NONDISCRIMINATION ACT

Download a copy of Colorado's Employment Nondiscrimination Act (196K).   
[http://www.gillfoundation.org/usr\\_doc/SB07\\_25\\_B\\_Signed.pdf](http://www.gillfoundation.org/usr_doc/SB07_25_B_Signed.pdf)

## APPENDIX E: ADDITIONAL RESOURCES AND LINKS FOR GENDER EXPRESSION

- **Colorado Department of Regulatory Agencies – Civil Rights Division:** Learn more about Colorado’s Employment Nondiscrimination Act and how to file a claim. [www.dora.state.co.us/civil-rights/index.htm](http://www.dora.state.co.us/civil-rights/index.htm)
- **Equal Rights Colorado:** Equal Rights Colorado promotes equal rights for Colorado's GLBT people and their families through non-partisan state legislative advocacy. [www.equalrightscolorado.org](http://www.equalrightscolorado.org)
- **Gender Identity Center of Colorado:** The Gender Identity Center of Colorado, Inc., (GIC) is a non-profit corporation organized in 1978 and incorporated in June 1980. The organization was formed to provide support to transsexuals, or those people who cross dress, or are non-traditional in their gender identity. The Center is also an informational and educational resource to the community at large. [www.gicofcolo.org](http://www.gicofcolo.org)
- **Gender Public Advocacy Coalition:** The Gender Public Advocacy Coalition works to ensure that classrooms, communities, and workplaces are safe for everyone to learn, grow, and succeed - whether or not they meet expectations for masculinity and femininity. [www.gpac.org](http://www.gpac.org)
- **National Center for Transgender Equality:** The National Center for Transgender Equality (NCTE) is a 501(c)3 social justice organization dedicated to advancing the equality of transgender people through advocacy, collaboration and empowerment. [www.nctequality.org](http://www.nctequality.org)
- **National Gay & Lesbian Task Force:** The National Gay and Lesbian Task Force builds the political power of the lesbian, gay, bisexual and transgender (LGBT) community from the ground up. [www.thetaskforce.org](http://www.thetaskforce.org) (The Task Force publishes a report called Transgender Equality, which can be downloaded from their site.)
- **Transgender Law & Policy Institute:** a non-profit organization dedicated to engaging in effective advocacy for transgender people in our society. The TLPI brings experts and advocates together to work on law and policy initiatives designed to advance transgender equality. <http://www.transgenderlaw.org>