

FACT SHEET (2012): Gender Expression

Changes to the Ontario Human Rights Code (1962):

On June 13, 2012, the Ontario legislature passed an amendment, known as the *Toby's Act* – Bill 33, to the Ontario Human Rights Code (1962), which extends protection against discrimination and harassment on the ground of gender expression. Discrimination is behavior that “excludes individuals or treats them unfairly because they are members of specific groups”¹. Harassment is a course of “vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”²

The Code has now been amended to specify that every person has a right to equal treatment without discrimination because of gender expression with respect to receipt of goods and services, accommodation, contracting, employment, and membership in a trade union, trade or occupational association or self-governing profession.

What is Gender Expression?

Gender expression refers to the way in which “an individual manifests their masculinity or femininity, through external characteristics and behaviors such as hairstyles, clothing and speech - traits that are socially defined as either masculine or feminine”³. Gender expression is generally defined as “appearance and behaviors which are interpreted as inconsistent with one’s born and raised sex and/or gender”⁴. Examples of traits or activities that are socially defined as masculine or feminine:

- Activities such as ballet, figure skating and certain jobs such as nursing tend to be labeled as feminine or ‘girly’ activities.
- Activities such as martial arts and certain jobs such as fields in construction tend to be labeled as masculine or ‘manly’ activities.
- Clothing such as skirts and dresses are labeled as feminine, whereas suits and ties are labeled as masculine.

Generalizations/assumptions made about the attributes of males and females, such as those listed above are known as gender stereotypes.⁵ Gender stereotypes is one of the root causes of discrimination against Lesbian, Gay, Bisexual, Transsexual, Transitioning, Intersexed, Queer, Questioning and Two-spirited persons.

¹ Glossary, Centre for Human Rights, Equity & Diversity, <http://hrs.humber.ca/diversity/glossary.php>

² Ontario Human Rights Commission, <http://www.ohrc.on.ca/en/policy-preventing-sexual-and-gender-based-harassment>

³ Rublin Thomlinson LLP, <http://rubinthomlinson.com/blog/gender-identity>

⁴ Ibid

⁵ <http://www.healthguidance.org/entry/15910/1/List-of-Gender-Stereotypes.html>

When is it Discrimination?

Individuals who do not conform to gender stereotypes in their appearance or behavior are targets of homophobic attitudes and behaviors. Homophobia is often defined as “the irrational aversion to, or fear or hatred of gay, lesbian or bisexual peoples and communities.”⁶ Discrimination based on Gender Expression can take the forms of:

- Overt actions such as bullying, homophobic jokes or remarks
- Covert actions such as the custom use of gender-normative language in class discussions. Gender normative language is language that conveys or reinforces gender-stereotypes.

It is imperative that Humber employees engage in ongoing education in the area of human rights to gain strategies and tools that will assist in the creation of inclusive and equitable environments at Humber.

This Fact Sheet was developed by the Centre for Human Rights, Equity & Diversity | HR Services.

⁶ <http://www.homophobiaday.org/>

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