

## (2012) Understanding Gender Identity

### 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 identity. Discrimination is behavior that “excludes individuals or treats them unfairly because they are members of specific groups”<sup>1</sup>. Harassment is a course of “vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”<sup>2</sup>

The Ontario Human Rights Code (1962) has now been amended to specify that every person has a right to equal treatment without discrimination because of gender identity 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 Identity?

According to the Ontario Human Rights Commission, gender identity refers to an individual's intrinsic sense of self and particularly, their inner sense of being male or female. An individual's gender identity may or may not conform to their birth-assigned sex and may include:

**Transgender peoples:** People whose life experience includes existing in more than one gender. This may include people who identify as transsexual, and people who describe themselves as being on a “gender spectrum” or as living outside the categories of “man” or “woman.”

**Transsexual peoples:** People who were identified at birth as one sex, but who identify themselves differently. They may seek or undergo one or more medical treatments to align their bodies with their internally felt identity, such as hormone therapy, sex-reassignment surgery or other procedures.

**Intersex peoples:** People who are not easily classified as “male” or “female,” based on their physical characteristics at birth or after puberty.

**Crossdresser peoples:** People who, for emotional and psychological well-being, dress in clothing usually associated with the “opposite” sex.

**Trans:** An umbrella term used to describe individuals who, to varying degrees, do not conform to what society usually defines as a man or a woman.

---

<sup>1</sup> [Glossary](#), Centre for Human Rights, Equity & Diversity

<sup>2</sup> Ibid

## (2012) Understanding Gender Identity

### When is it Discrimination?

Discrimination because of gender identity is “any action based on a person’s sex or gender, intentional or not, that imposes burdens on an individual or group and not on others, or that withholds or limits access to benefits available to other members of society.”<sup>3</sup> Discriminatory actions based on gender identity can be overt, subtle or systemic, such as that which arises from the application of a non-inclusive rule or policy.<sup>4</sup>

### Examples of discriminatory behaviors because of gender identity:

- Jokes, name-calling, or the public display of pictures that insults or offends an individual based on their gender identity.
- An employee tells their manager that they cross-dress. The manager informs the employee they will no longer qualify for promotions or job training, because customers and co-workers will not be comfortable with them.

### What does this mean for Humber?

Humber College is committed to maintaining learning, working and living environments that are free from discrimination and harassment. Education providers have a responsibility to preserve the principles of inclusivity and equity within their learning environments. To this end, Postsecondary institutions must exercise extreme diligence in the management of personal information of all its constituents. According to the Ontario Human Rights Commission:

*“An employer or service provider who legitimately requires and collects personal information that either directly or indirectly identifies a person’s sex which may be different from his or her gender identity must ensure the maximum degree of privacy and confidentiality of the information. This applies in all situations and circumstances including employment records and files, insurance company records, medical information, etc.”<sup>5</sup>*

Ongoing education in the area of human rights can contribute to the maintenance of an inclusive and equitable environment.

This Fact Sheet was adopted from the listed sources and developed by the Centre for Human Rights, Equity & Diversity | HR Services.

---

<sup>3</sup> [Policy on Discrimination and harassment because of Gender Identity](#), Ontario Human Rights Commission

<sup>4</sup> [Glossary](#), Centre for Human Rights, Equity & Diversity

<sup>5</sup> [Policy on Discrimination and harassment because of Gender Identity](#), Ontario Human Rights Commission

Accessibility: This document is available in alternate formats.