



STATE OF WASHINGTON
HUMAN RIGHTS COMMISSION

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March 10, 2009

Lisa Mottet, Esq.
Transgender Civil Rights Project, Director
National Gay and Lesbian Task Force
1325 Massachusetts Avenue NW, Suite 600
Washington, DC 20005

Dear Ms. Mottet,

Thank you for your recent inquiry about the gender expression/ identity protections under the Washington Law Against Discrimination (WLAD), RCW 49.60. The Washington State Human Rights Commission (WSHRC) enforces the WLAD. The WLAD prohibits sexual orientation and gender expression/ identity discrimination in employment (employers with eight or more employees), housing, places of public accommodation, and credit and insurance transactions. The WSHRC views the new sexual orientation and gender expression/identity jurisdiction as a natural extension of civil rights.

The WSHRC has had jurisdiction over sexual orientation and gender expression/ identity discrimination since June 2006. Overall, we receive 3-4 complaints a month that allege sexual orientation or gender expression/ identity discrimination. Since implementation in 2006, about one-quarter (30) of these complaints are based on gender expression/ identity protections. Most of the gender expression/ identity complaints are in the area of employment, which is consistent with complaints filed under other jurisdictions.

While the number of filed complaints has not been huge, we have received a high number of inquiries from employers, housing providers and potential complainants who have questions. Many of these questions are about the gender expression/ identity protections under the WLAD. We have tried to be very proactive, in order to anticipate and answer questions before possible discrimination occurs. We get about ten inquiries a month.

In particular, we have received many questions about restroom use for transgender individuals. Since implementation, the WSHRC has offered guidance on this issue to employers and places of public accommodation. Simply, transgender individuals should be able to use the restroom corresponds to his or her gender identity. For example, a transgender girl or woman (male to female) should be able to use the women's restroom and a transgender boy or man (female to male) should be able to use the men's restroom. These questions have not been burdensome or difficult to answer, and employers have been very appreciative of the clarity we can provide on this issue.

In our effort to provide outreach and education to employers, we always remind people that these protections do not prohibit an employer from taking action in allegations of harassment or other inappropriate behavior. We are not aware of any circumstances in which people have inappropriately tried to access locker rooms, restrooms or other gender-separated facilities because of the gender expression/ identity protections under the WLAD.

We have received a limited number of complaints regarding restroom or locker room usage. Examples of complaints include:

- A transgender woman, who alleged that she was asked to leave a gym to which she was a member, after gym staff learned that she was transgender. We were not able to investigate the case because it was not filed within the statute of limitations.
- Two transgender men, who alleged that they were asked to leave the men's restroom at a mall after another patron notified security. The case is being settled and will include comprehensive training for the security company.
- A transgender woman, who alleged that she should not be required to fulfill the physical education requirement at her community college, due to her transgender status. The case was closed No Reasonable Cause because the college was able to demonstrate a willingness to consider multiple accommodation options that would have allowed the student to complete her physical education requirement.

We have received very few questions and no complaints about dress codes. A dress code should allow a transgender employee to dress in a manner that is consistent with his or her gender identity. As long as dress codes are applied in a non-discriminatory way to all employees, we do not anticipate that dress code issues would arise in many situations.

We have a number of resources on our website at www.hum.wa.gov. Please feel free to pass these resources on to other civil rights agencies and others who are considering new sexual orientation and gender expression/ identity protections. I hope this information is useful. If you or others have additional questions or need more information, please feel to contact me at sortiz@hum.wa.gov or 360-753-258.

Sincerely,



Sharon Ortiz
Interim Executive Director