THINGS YOU NEED TO KNOW

1. Does California law protect transgender and gender nonconforming employees from employment discrimination? Yes. All employees, job applicants, unpaid interns, volunteers, and contractors are protected from discrimination at work when based on a protected characteristic, such as their gender identity, gender expression, sexual orientation, race, or national origin. This means that private employers with five or more employees may not, for example, refuse to hire or promote someone because they identify as – or are perceived to identify as – transgender or non-binary, or because they express their gender in non-stereotypical ways. Employment discrimination can occur at any time during the hiring or employment process. In addition to refusing to hire or promote someone, unlawful discrimination includes discharging an employee, subjecting them to worse working conditions, or unfairly modifying the terms of their employment because of their gender identity or gender expression.

2. Does California law protect transgender and gender nonconforming employees from harassment at work? Yes. All employers are prohibited from harassing any employee, intern, volunteer, or contractor because of their gender identity or gender expression. For example, an employer can be liable if co-workers create a hostile work environment – whether in person or virtual – for an employee who is undergoing a gender transition. Similarly, an employer can be liable when customers or other third parties harass an employee because of their gender identity or expression, such as intentionally referring to a gender-nonconforming employee by the wrong pronouns or name.

3. Does California law protect employees who complain about discrimination or harassment in the workplace? Yes. Employers are prohibited from retaliating against any employee who asserts their right under the law to be free from discrimination or harassment. For example, an employer commits unlawful retaliation when it responds to an employee making a discrimination complaint – to their supervisor, human resources staff, or CRD – by cutting their shifts.

4. If bathrooms, showers, and locker rooms are sex-segregated, can employees choose the one that is most appropriate for them? Yes. All employees have a right to safe and appropriate restroom and locker room facilities. This includes the right to use a restroom or locker room that corresponds to the employee's gender identity, regardless of the employee's sex assigned at birth. In addition, where possible, an employer should provide an easily accessible, gender-neutral (or “all-gender”), single user facility for use by any employee. The use of single stall restrooms and other facilities should always be a matter of choice. Employees should never be forced to use one, as a matter of policy or due to harassment.

5. Does an employee have the right to dress in a way that feels appropriate for them? Yes. Employees have the right to dress in a way that feels appropriate. Employers are required to respect individuals' chosen names and pronouns that correspond with their gender identity or gender expression. These are sometimes known as “chosen” or “preferred” names and pronouns. For example, an employee may not be legally obligated to use an employee's legal name in specific employment records, but when no legal obligation compels the use of a legal name, employers and co-workers must respect an employee's chosen name and pronouns. For example, some businesses utilize software for payroll and other administrative purposes, such as creating work schedules or generating virtual profiles. While it may be appropriate for the business to use a transgender employee's legal name for payroll purposes when legally required, refusing or failing to use that person's chosen name and pronouns, if different from their legal name, on a shift schedule, nametag, instant messaging account, or work ID card could be harassing or discriminatory. CRD recommends that employers take care to ensure that each employee's chosen name and pronouns are respected to the greatest extent allowed by law.

6. Does an employee have the right to be addressed by the name and pronouns that correspond with their gender identity or gender expression? Yes. Employers have the right to use and be addressed by the name and pronouns that correspond with their gender identity or gender expression. These are sometimes known as “chosen” or “preferred” names and pronouns. For example, an employee may not be legally obligated to use an employee's legal name in specific employment records, but when no legal obligation compels the use of a legal name, employers and co-workers must respect an employee's chosen name and pronouns. For example, some businesses utilize software for payroll and other administrative purposes, such as creating work schedules or generating virtual profiles. While it may be appropriate for the business to use a transgender employee's legal name for payroll purposes when legally required, refusing or failing to use that person's chosen name and pronouns, if different from their legal name, on a shift schedule, nametag, instant messaging account, or work ID card could be harassing or discriminatory. CRD recommends that employers take care to ensure that each employee's chosen name and pronouns are respected to the greatest extent allowed by law.

7. Can an employer ask an applicant about their sex assigned at birth or gender identity in an interview? No. Employers may ask non-discriminatory questions, such as inquiring about an applicant's employment history or asking for professional references. But an interviewer should not ask questions designed to detect a person’s gender identity or gender transition history such as asking about why the person changed their name. Employers should also not ask questions about a person's body or whether they plan to have surgery.

For additional translations of this guidance, visit: www.calcivilrights.ca.gov/posters/required

TO FILE A COMPLAINT
Civil Rights Department
calcivilrights.ca.gov/complaintprocess
Toll Free: 800.884.1684 / TTY: 800.700.2320
California Relay Service (711)

Have a disability that requires a reasonable accommodation? CRD can assist you with your complaint.

Want to learn more? Visit: https://bit.ly/3hTG1EO