



Ask Aliya: How to Be Inclusive with Transgendered Employees and Preferred Pronouns

Employment and Labor



“Ask Aliya” is a column for lawyers who are the first legal hire at their company and need advice from an in-house lawyer who has been there before. Aliya Ramji was the director of legal and business strategy for Figure 1 Inc., a network used by more than one million healthcare professionals to share

cases and collaborate. She is now a partner at McCarthy Tétrault, where she offers guidance on in-house law and startup businesses. To have your legal questions for startups answered, email aramji@mccarthy.ca with "Ask Aliya" in the subject line.

Dear Aliya,

We recently hired a transgender woman at our company. There has been some confusion about how to address her since she's pre-op. What's the best way to approach and discuss the subject with the staff while still making her feel comfortable and welcomed?

Striving for Inclusion

Dear Striving for Inclusion,

I want to acknowledge at the outset of this response that I am not a trans person or non-binary, and I do not have the lived experience as a trans person. I also want to recognize that each individual is different and that there is no one-size-fits-all solution for every individual. If your goal is to ensure that every member of your staff is made to feel safe and welcome, then the best solution is almost always to have an open dialogue to ensure that you are clear with an individual's wishes and what will make them feel comfortable and welcome.

The experience of being misgendered can be hurtful and embarrassing for all parties, which can create tension in the workplace, leading to communication breakdowns. Personal pronouns are so important to get right that even Google's "Smart Compose" technology for Gmail won't suggest gender-based pronouns out of fear of bias. As the Human Rights Campaign notes "nothing may be more personal than the way in which people refer to us through our name and pronouns." Therefore, using a person's chosen name and preferred pronouns is a form of respect.

Not only is using a person's preferred pronoun a basic courtesy but failing to do so could be in violation of human rights law. In Canada, The Human Rights Tribunal of Ontario notes that the law recognizes that everyone has a right to self-identify their gender and that misgendering is a form of discrimination.

When a colleague is transitioning genders, the number one rule is to use their preferred pronoun *wherever* they are on their journey. If the employee is identifying as a woman, whether or not she is pre- or post-op, the right and non-discriminatory thing to do is to respect her preferred pronouns. For example, in this case your employee's pronouns may be she/her, but they could also be they/them.

An easy way to bring pronouns into the discussion is to start with yourself. If you're introducing your name, include your pronouns too. Discuss with your employee how they would like to announce their transition (if at all), and how and when they will be presenting their true gender identity full-time.

The duty to accommodate the needs of trans people starts with an inclusive work environment. The organization, senior leadership, and colleagues of the employee should work together to disclose only the necessary information and respect the individual's privacy.

To promote inclusivity, coworkers should be informed about when they should begin using the

transitioning person's chosen name and pronoun and why these simple acts are vital to the process. Having been at a workplace where someone has transitioned, it was extremely refreshing to see that colleagues and managers were all open to the discussion and the conversation, as long as it was with respectful intentions.

According to research conducted for Harvard Business Review, for many employees, it may be their first exposure to a transgender individual, much less the transition process. Some employees will not be mentally prepared to respond to change thoughtfully and may need some time to process the complexities involved. It's the responsibility of the HR and legal departments to work together to educate the organization.

It's important to raise awareness with colleagues and set expectations around appropriate workplace behavior. The individual is already dealing with a difficult and emotionally draining process, and therefore, it should not be their responsibility or burden to educate their colleagues and organization on appropriate behavior. Remember, a trans person is not required to educate others on gender, nor should it be expected of them to speak on behalf of the entire trans community.

This would be an excellent time for your company to develop a trans inclusion policy, educate employees and yourself about the issues and the language of gender identity, look for barriers that currently exist, and be proactive in providing support to the employee. It should be made clear to everyone that any intentional misgendering violates the company's inclusion values, not to mention human rights requirements, and will not be tolerated.

Of course, mistakes will happen. If you or a colleague find yourself accidentally misgendering someone, the best course of action is to acknowledge that the wrong pronoun was used, correct it, and move on. Failing to express the mistake may lead others in the workplace to assume that it's perfectly acceptable to use the incorrect pronoun. Reaching out for advice is the first step in creating an atmosphere of safety and inclusion. With compassion and education, you'll be well on your way to ensuring that trans individuals are treated with dignity and respect within your organization. Thank you for being so willing and open to learning!

Aliya

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