

# Transphobia and discrimination toward transsexuals

[Sociology](#), [Social Issues](#)



Transphobia and Discrimination toward Transsexuals In the Workplace: Legal Issues Workplace discrimination has been litigated across most gender, social, and cultural lines; but case law in sexual minority discrimination is still in its infancy. This has been deliberately designed. The United States constitution originally painted a broad stroke for liberty, leaving to future generations the task of identifying cultural, social, and sexual changes as the times progressed. The concern of this paper is an examination of the issues of discrimination and legal remedies for transgendered persons. This paper will reflect on the legal implications for transsexuals in the workplace, examining both employees' and consumers' rights. An article by John Cloud, in Time magazine, provides a starting point for consideration. In his article, A Transsexual vs. the Government, Mr. Cloud recounts the story of David Schroer, a former Special Forces colonel. (Cloud, 2008, p1). Schroer was recruited for the position of terrorism specialist for the Congressional Research Service. He was ready to assume his job when he made the decision to reveal to his superior that he intended to "...start living full time as a woman. He would also probably have sex-reassignment surgery. And so he planned to start at CRS as Diane Jacqueline Schroer, not David John Schroer. " (Cloud, 2008, p1). Schroer was terminated from the position and brought a lawsuit against the CSR. The CSR was forthright in admitting that it had discriminated against Schroer because of her transsexual status. The agency could afford to be bold in its discrimination because " it's not explicitly illegal to discriminate against the transgendered, because no federal law prohibits discrimination on the basis of gender identity. " (Cloud, 2008, p3) The legal dilemma facing the courts in landmark decisions such as

this case is in the question, " What is sex? " In this case, an expert witness testified that after all the research is completed . . . ' there will be some biologic, some psychologic, some combination of psychological etiologies' that lead to gender identity in the transgendered. Sex, in other words, is not just what you have between your legs; it is what you have behind your ears. (Cloud, 2008, p3) Herein lays the problem. If sex is more complex than mere biology, if it involves psychology as well as biology, then case law remains in transition. Up until the present, claimants in lawsuits have tried to rely upon Title VII of federal civil rights statutes. This statute maintains that discrimination is not allowed on the basis of biological sex. Lately, the Supreme Court has expanded the interpretation of this statute to allow cases of transsexual discrimination to be brought for trial. Only four states — Minnesota, Rhode Island, New Mexico, and California — have statutes prohibiting discrimination against transsexuals. (Minter, 2003). How, then, do transgender persons experience discrimination in the workplace? More than likely, if an agency is prone discriminate against employees, one might expect for them to also discriminate against customers. In the remainder of this paper, I will reflect on a specific example of discrimination of a consumer in an agency I worked in several years ago. Our agency provided psychosocial rehabilitation to persons with chronic mental health problems. One of our consumers was a male to female transgender person. This person, whom we will call Joe as a male or Josephine as a female, was born biologically as a male. He was considered to be transgendered because his " gender identity was in conflict with his physical sex. " (The National Journal of Sexual Orientation Law, 2009). Joe believed that he was, inside, a woman

although his anatomy was male. Joe insisted on dressing as a woman and behaving in a feminine manner. He would maintain that this was not so much a choice, but rather was a deep-rooted gender identity. He insisted that he was not gay, for he recognized that homosexual refers to sexual orientation and transsexual refers to gender. Joe looked forward to the day when he could afford to have the surgeries to transition his body from male to female. The staff of the agency had no problem denying Josephine the expression of female gender identity. The word went out from management that she was to be treated as a male: Staff was to refer to her as " he" and he was to be called " Joe, " never " Josephine. " Joe was not allowed to use the women's bathroom; he was required to use the men's room. Joe was required to identify himself as " male" on all agency forms. Essentially, the issue of gender identity was to be completely ignored. Joe often went to sympathetic staff in private and revealed feelings of despair and depression because of the discriminatory attitudes of the agency. This " transphobic behavior is more volitional and aggressive than the ignorance associated with a heterocentric environment. " (Gotbaum, Browne, & Woltman, 2008). What, then, needs to occur to ensure that transgendered employees and consumers receive fair treatment? The Office of the New York City Public Advocacy recommends the following: 1. Provide In-House LGBT Sensitivity Training 2. Make LGBT Training Mandatory for all Staff 3. Designate an LGBT Liaison...for compliance with discrimination policies and to serve as contact person from both LGBT patients and staff. 4. Establish, Display and Enforce a Zero-Tolerance Discrimination Policy for Patients and Staff 5. Advertise LGBT friendliness and Reach Out to the Community 6. Change medical Forms to

Reflect Patient Diversity 7. Establish a Review process (Gotbaum, Brown, and Woltman, 2008) As the final frontier of anti-discrimination case law is litigated, transgender issues need to be addressed in every workplace so that the dream of the Constitution can be realized. As in most civil rights cases, the issues are going to be won one fight at a time by brave persons within and without the LGBT community. Reference Page Cloud, John. (2008). A transsexual vs. the government. Time Magazine, 1-4. . Gotbaum, Betsy., Browne, Daniel., & Woltman, Mark. (2008). improving lesbian, gay, bisexual, and transgender access to healthcare at New York City health and hospitals corporation facilities. Available