

EMPIRE STATE  PRIDE AGENDA

Transgender Issues in the Workplace

LESSONS FROM ACROSS NEW YORK STATE

FEATURING SUCCESS STORIES FROM:

CORNING INCORPORATED

MCDERMOTT, WILL & EMERY LLP

NORMANSIDE VET CLINIC

XEROX CORPORATION

EMPLOYEE EXPERIENCES FROM:

NEW YORK CITY PUBLIC SCHOOL SYSTEM

NEW YORK TIMES COMPANY

TRANSGENDER LESSONS

XEROX CORPORATION

ROCHESTER, NY

“Transgender policies and practices are just like diversity policies and practice—there is an evolution. Just like diversity has evolved over the years as an outgrowth from affirmative action, so has the LGBT movement and rights and policies and practices as well. If your company values an open, trusting environment where *all* employees are welcome and there is equality, then that means *all*. But the moment you start deviating from that and making exceptions and saying, ‘yeah, but,’ then it’s kind of a free for all.”

ERNEST L. HICKS

MANAGER OF THE CORPORATE DIVERSITY OFFICE

LEARNING FROM NEW YORK’S WORKPLACES

As New York has considered passage of a statewide transgender non-discrimination law, some policymakers and legislators have expressed concerns about how such legislation would affect the state’s businesses and workplaces. Fortunately, our state does not need to simply theorize about the impact. As of early 2009, 13 states and the District of Columbia—including states perceived to be more conservative than New York like Colorado, Iowa and Minnesota—have implemented transgender non-discrimination laws without any negative impact to the business community. Right here in New York, one needs simply to look at the many New York companies that have successfully and effectively addressed transgender concerns in their workplaces to see that prohibiting transgender discrimination is not only manageable, but also helps make employees more productive and employers more competitive. This is true for companies throughout New York State—both those located in one of the localities that have adopted transgender non-discrimination ordinances (such as Albany, Binghamton, Buffalo, Ithaca, New York City, Rochester, Suffolk County and Tompkins County) and those that are not.

This report surveys the experiences of several New York employers, large and small, public and private, upstate and downstate. A number of transgender employees who agreed to be interviewed did so at some risk because even though their workplaces are supportive, they are still working in a state without a basic civil rights law prohibiting employment discrimination on the basis of gender identity and expression.

The lessons from these corporations, businesses and public sector employers show that far from creating “chaos” as some like to speculate, a proactive, comprehensive approach to ensuring transgender equality has led to more satisfied, efficient employees and more harmonious, productive workplaces. Their experiences demonstrate that a statewide law bringing this practice to all New York workplaces does not create compliance barriers and would only have positive implications for New York State’s public and private sectors.

PRIVATE SECTOR HAS LONG LED THE WAY

For many companies, preventing and addressing transgender discrimination will be nothing new. Though some policymakers imagine hardships that such a law might place on businesses, the irony is that the private sector has long been a leader on this issue. As of early 2009, 62 of the Fortune 100 companies already have diversity and/or Equal Employment Opportunity policies that specifically include gender identity and expression.

For example, Ernest L. Hicks, Manager of the Corporate Diversity Office at the **Xerox Corporation**—founded in Rochester and now a company with \$17.6 billion in annual revenue—explains that, “Once we had the discussion about what it meant and what we would have to do in support of a transgender employee—both inside of Xerox and as an outside representative of Xerox in the customer community—everybody agreed.” Xerox has now had gender identity in its non-discrimination policy for over five years.

Similarly, **McDermott Will & Emery LLP**, an international law firm with over 1,000 lawyers in 15 offices around the world, created a policy inclusive of transgender people in 2006. “At the time, I did not know whether or not we had any transgender employees, in either the attorney or staff ranks,” says Lisa A. Linsky, New York City-based Trial Partner and the firm’s Partner in Charge of Firm-Wide Diversity. “But that was irrelevant. If we were going to create a culture that was committed to inclusion and equality, we had to expand our policies to include protections for employees based on gender expression and identity, as well as sexual orientation.”

Corning Incorporated, based in Corning, New York with 25,000 employees worldwide, not only has a transgender-inclusive policy but also integrates that policy into its corporate structure. A Team Leader who supervises a transgender employee describes the company as “very diversity-oriented. It’s part of what makes for a great work environment here at Corning.” He adds that one of Corning’s key values is valuing individual employees for the characteristics that make them unique, including their gender identity. His colleague, the Laboratory Supervisor, put it succinctly: “In Corning, it’s infused in the culture.”

TRANSGENDER LESSONS

**MCDERMOTT
WILL & EMERY LLP**
NEW YORK CITY

“Simply because another type of diversity presents itself in the workplace that people may not understand is no reason to ignore it or deny its existence. Embracing gender expression and identity in the workplace does not involve anything particularly complicated or expensive. It was not a hard sell at our firm. There was a willingness to look at transgender workplace issues and acknowledge that this is the right thing to do. It is consistent with our overall commitment to diversity and inclusion.”

LISA A. LINSKY
NEW YORK CITY-BASED TRIAL
PARTNER, PARTNER-IN-CHARGE
OF FIRM-WIDE DIVERSITY
AND FOUNDER AND CHAIR OF
THE FIRM'S LGBT DIVERSITY
COMMITTEE

A NON-ISSUE, IN PRACTICE, WITH LARGE BUSINESSES

While policymakers might perceive having openly transgender employees as a new experience for the business community, some employers had their first exposure to transgender issues many years ago. Ernest Hicks at Xerox says the company's first transgender employee transitioned in the Monroe County/Rochester area 12 years ago, and that six employees have transitioned at Xerox since then.

Mr. Hicks gives an example of the case of a long term employee who made a gender transition from male to female. “After the employee had a conversation with Human Resources and the immediate manager and they agreed, the manager called a team meeting to inform co-workers and other people who had been in the office to explain what was happening and the employee's desire. Everybody in the room offered congratulations and said, ‘This must have been difficult for you. We're glad and happy for you.’” According to Mr. Hicks, there were no negative repercussions regarding the employee's gender transition. “I have not received any complaints, or ‘How dare you,’ or ‘We're going too far’ comments, nor have any employees shared anything that was of negative impact for us to have any reason to flinch or have any concerns.”

Dan, a Mechanical Technician at Corning, describes developing a support group at work as part of his gender transition: “I went to my Human Resource Manager, and after talking to her, I came to my supervisors and also asked them to be part of my support group. The way we rolled it out to the lab was we called everybody in one-on-one, my supervisor and I. We told them that I was transgender. We told them what Corning's views were and what the policies were on transgender employees, and asked if there were any questions. And to be honest, there were very few questions.” Dan's Laboratory Supervisor says, “It was very important to us to roll out the plan effectively and seamlessly in a way that Dan was comfortable with, and to make sure we knew how we would respond if there was anything that came up in the lab.”

Many companies, including Xerox and Corning, Inc., have addressed transgender concerns proactively by adopting guidelines for managers and employees so there would be no ambiguity and everyone would know what to expect. The guidelines have included guidance on name changes and bathroom use, suggestions on when to have a team meeting to communicate the gender transition to fellow employees and even a pro forma memo to be sent to other employees. The experience of these New York companies with such guidelines has been that this ounce of prevention—though not required—was easy and inexpensive to implement, and decreased the need for the more expensive and inefficient “pound of cure” of dealing with and responding to incidents of transgender discrimination as they occur.

A NON-ISSUE, TOO, WITH SMALL BUSINESSES

Some policymakers theorize that while big corporations may be able to create policies that address transgender issues in the workplace, negotiating those issues will be particularly challenging for small businesses. For an Albany-based small business, their experience has been exactly the opposite.

Dr. Nancy Sikora is the Veterinarian / Owner of **Normanside Vet Clinic**. She says that the small size and intimacy of her practice made it easy for a staff member to go through a gender transition. “We're a pretty small group,” she explains. “Working together in a small business makes us all pretty close knit and we know a lot about each other. I think in a lot of ways that helps. We all relate to each other as people even more than co-workers.”

Her employee, Alex Hauptman, is a Veterinary Assistant. He says his gender transition was relatively easy. “I basically started by saying that I preferred to go by a different name and then just spoke about myself in a candid way and people kind of picked it up. I got a lot of questions, which is fine. There was no hostility, really.” Dr. Sikora says, “The one thing we had to do is intentionally make a change in pronoun usage after a certain period of time. And I discussed that with my licensed technician, and we all decided that we would try to use the correct pronoun.”

TRANSGENDER LESSONS

CORNING INCORPORATED

CORNING, NY

“We want good employees. We want people like Dan. You don’t want anything getting in the way of his performance, plain and simple. So as far as working in a laboratory that’s very busy and needs top notch people, you want to establish an environment where they feel they can come in and contribute and feel they are part of the family. That’s the type of culture that Corning embraces, and I think that’s part of the reason Dan keeps coming in to work everyday.”

JEFF

LABORATORY SUPERVISOR

THE STORY IS THE SAME FOR PUBLIC SECTOR EMPLOYERS

Corporations and businesses are not the only employers who have successfully dealt with transgender issues on the job. Loren is a full-time sixth grade English teacher at a public middle school in Brooklyn that is part of the [New York City Public School System](#)^{*}. He transitioned from female to male over the course of a year. Loren first approached the principal with the support of two co-workers who he trusted. Although the principal was respectful, she was initially hesitant about having a professional development session or otherwise opening dialogue on Loren’s transition with other employees in the building. Eventually, however, she decided to let Loren find someone qualified to run a full-faculty workshop during the school’s in-service day before this school year began. “So I contacted a public interest lawyer who came to my school to explain why it is imperative that educators prevent everyone, regardless of age, from being harassed on the basis of gender identity and expression,” Loren says. “Since then, other than occasional pronoun slip-ups, I have had no personal problems or issues with coworkers or employers.”

“Overall, my transition at work as a teacher has gone pretty smoothly,” Loren says. “And it has not been particularly demanding on the school either.”

BATHROOMS AND REASONABLE ACCOMMODATION

Many policymakers fear that a transgender non-discrimination law will lead to uncomfortable and unwieldy experiences related to bathroom use by employees, or even a prohibition on gender-specific multi-stalled bathrooms. However, the experience of employers has been that such bathroom issues are easily managed.

For many employers, particularly small businesses, there are no issues at all. “Obviously, if you can have single occupancy bathrooms, like many small businesses do, there’s simply no problem,” says Alex Hauptman at the Normanside Vet Clinic. Mr. Hauptman has also worked for other employers that had two single-occupancy bathrooms and simply removed the gender signs from each and let people use either. Dr. Sikora, makes a humorous observation about Normanside Vet’s one bathroom: “Everybody uses it, male, female or otherwise. It’s just like when you’re at a house at a party—everybody uses the same bathroom.”

Even for a larger company like Xerox, bathroom use has been navigated successfully. Ernest Hicks explains that in all-Xerox facilities or office complexes where Xerox has an entire floor, creating unisex bathrooms is “no problem or issue at all. The simple solution we have used is to designate or convert a bathroom into a single-occupancy facility to make it unisex. I think it is just another example of evolution, of getting a wider breadth of understanding and acceptance of the needs of employees.”

Mr. Hicks notes that the issue is not as straightforward when a Xerox office may share space with other tenants, and that it requires involvement with the building management and managers of other offices and their employees. “Sometimes other organizations’ practices may not have evolved to where you are, so it does require some compromising, some conversations,” he says. However, even in those situations, Xerox has been able to come to an agreement, such as designating a bathroom facility on a certain floor that the transgender employee could use. “The employee was OK with it because it allowed them to meet their requirements, and it made other people in the building comfortable,” Mr. Hicks says.

NO PROBLEMS WITH CLIENTS AND VENDORS

Some policymakers worry less about how transgender issues will be managed among employers and employees, but more about how customers, clients and others from outside the company will react to transgender employees. Employers interviewed for this report pointed out that in those rare cases when clients or customers are even aware that they are interacting with a transgender employee, they are much more likely to be concerned with the quality of the service they receive than the employee’s gender identity.

Dr. Sikora at Normanside Vet, for example, points out that because they are not involved in the day-to-day life of employees, clients are less concerned about things like gender transition and more concerned about whether the employee is providing good service. “Any decision I

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NORMANSIDE VET CLINIC

ALBANY, NY

“We’re a pretty small group. Working together in a small business makes us all pretty close knit and we know a lot about each other. I think in a lot of ways that helps. We all relate to each other as people even more than co-workers.”

DR. NANCY SIKORA

VETERINARIAN / OWNER

make in terms of an employee is really going to be more about how they are going to work with the rest of my staff and how they are going to work with the clients and be perceived by the clients,” she says. “I think Alex is very competent and deals very well with clients, and they are going to see that.” She adds that clients do not necessarily understand that her employee Alex is transgender, but that it does not create any confusion. “Originally they would refer to Alex as ‘she’ and now they will refer to Alex as ‘he,’ because they are just using what their perceptions tell them.”

Corning had a similar experience with people who came into the workplace and were not part of the employee’s gender transition. “The nice thing is it really isn’t an issue here,” says Dan. “No one is bothered by it at all. We have a few people who are outside vendors that come in and work on equipment and things like that, and they are not aware of what is going on. We’ve really had no problems.”

A COMPETITIVE NECESSITY

A number of companies identified that the need to be competitive in terms of attracting a high quality workforce and having productive employees requires them to prevent transgender discrimination in their workplaces.

McDermott Will & Emery LLP recognizes the need to attract all qualified candidates, regardless of gender identity and expression. Lisa A. Linsky feels that the firm is “definitely” better prepared to deal with transgender workplace issues now, “because there has been firm-wide education that there are transgender workers who may seek employment in a large international law firm such as ours, who bring the sort of diversity of opinions and creative problem-solving skills that clients want from their legal providers.”

For Xerox, Ernest Hicks says the competition perspective is not limited to the company’s work here in New York State—it’s global. “As companies begin to say that they are global in their reach and what they do—the longer they are not looking at this, not having an open mind and considering their practices and policies, the further behind they will get because of the number of employees who are now publicly communicating their transgender status.”

This concern about not attracting or retaining talented employees is not theoretical; without a law or policy, companies may be losing out on the best employees for the job. Alex Hauptman from Normanside Vet explains from personal experience: “Working in a smaller business place, a more privately owned business, it is safer to come out because you are able to deal with things on a much more interpersonal level, versus a really large clinic that has lots of paperwork and policy. That was definitely something I had to take into consideration when I was job hunting. Part of the reason why I turned down a different job was because I felt like they were too cookie-cutter for me.”

Companies also recognize that comfortable, safe employees who do not face discrimination or harassment at work will be more productive employees. Dan’s Team Leader at Corning observes: “The other part of this success story is that this has not impacted Dan’s performance in the workplace at all at any level.” The Laboratory Supervisor elaborates, “Dan is part of the family here. We know him; he is an outstanding contributor. We want people like Dan. The corporate policy and gender transitioning guidelines are a great sign of Corning’s proactive nature of ensuring that they are developing a very positive workplace and work environment.”

Dan himself describes how coming out at work as a transgender employee has positively affected his performance: “As an employee, it lifts a big burden off of you. When you’re not open, you feel like you’re lying to people, you feel like you’re hiding something, or you don’t feel like you’re being honest. Here, everybody is pretty honest with everybody, so I felt like I was being dishonest. I’m pretty active in the LGBT community. I’m going to meetings and I’m joining different groups and I’m doing different things outside the workplace. I was so afraid that someone was going to see me and word was going to get back, and I was going to come in on a Monday morning and everyone was going to know I was transgender and I didn’t tell them. That was my biggest fear, how they would react then. I wanted to tell them under my terms.”

Donna Cartwright, a transgender employee who worked at the [New York Times Company*](#), shared Dan’s feeling of trepidation during the years she was not open about her gender identity and expression. “I was a staff editor at the *New York Times*. I was in the closet as a transgender

TRANSGENDER LESSONS

NEW YORK CITY PUBLIC SCHOOLS

BROOKLYN, NY

“It was not difficult for my principal to address the issues around my gender transition in some ways. Sometimes it’s difficult for people to admit that they don’t understand something, so New York City’s employment non-discrimination ordinance definitely made a difference for me. It gave me confidence in self-advocating and knowing that I had some recourse if I was treated disrespectfully at work.”

LOREN

SIXTH GRADE MIDDLE SCHOOL ENGLISH TEACHER

person for my first 21 years at work, and I always worried about what might happen if someone found out. When I came out in 1998 with the support of my union and the company, that worry disappeared, and I felt considerably more at ease for the next eight years of my employment.”

As an employee in a public school, Loren felt supported by New York City’s local transgender non-discrimination ordinance, which allowed him to feel safer as a transgender person. Similar to Dan and Donna, the ability to live in his gender identity allowed him to concentrate less on employment issues and more on his job of teaching students. “In New York City, employees like me can feel more secure knowing our rights are protected. The law has definitely made a difference for me, if for no other reason than it provides an important peace of mind. Policies are so important.”

A SIGN OF THE TIMES

The transgender lessons that can be learned from New York’s employers are that openly transgender employees can and are productively contributing to their workplaces throughout the private and public sectors. Any misgivings about the ability of employers to cope with policies and laws prohibiting transgender discrimination would seem to be based more on myth, stereotype and assumption than on the actual experiences of New York’s workplaces.

In many ways, the companies that have lessons to share about transgender issues in the workplace have simply been keeping pace with changing times, something the private sector must do to survive in tough economic times.

Dan at Corning was surprised by the number of fellow employees who had previous contact with other transgender people in their lives. “There were 22 co-workers we talked to about my being transgender, and two of them actually had transgender people in their families. I was amazed.”

Lisa A. Linksy at McDermott Will & Emery LLP sees the emergence of transgender issues as a trend in the legal profession: “Law firms are increasingly paying attention to issues involving sexual orientation and gender expression and identity in the workplace. We looked at our policies, procedures and benefits to make sure that what we did for lesbian, gay and bisexual employees was also extended to transgender individuals.”

Ernest Hicks at Xerox theorizes that business is simply catching up to where its employees already are: “When you look at the younger generation coming into the work environment, they are a lot more open and non-evaluative when it comes to individuals and ethnicity than any other group in our society because they grew up that way. A lot of their friends represented various aspects of diversity, including LGBT. So they bring that mentality and attitude into the work environment with them.”

*This employer is referenced as part of the employee’s story and does not represent an official statement by the employer about its policies on this issue.

EMPIRE STATE PRIDE AGENDA FOUNDATION

The Empire State Pride Agenda Foundation is the non-partisan 501(c)(3) research, education and advocacy organization affiliated with the Empire State Pride Agenda. The Foundation advances the Pride Agenda’s public policy goals by: educating public officials and policymakers; building coalitions and mobilizing allies; and organizing, empowering and educating the LGBT community in urban, suburban and rural communities across New York State.

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