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# NYC Commission on Human Rights Announces Strong Protections for City's Transgender and Gender Non-Conforming Communities in Housing, Employment and Public Spaces

December 21, 2015

***Commission releases new guidance on gender identity and gender expression protections under New York City's Human Rights Law to provide explicit examples to employers, landlords, business owners, and the general public on what the City considers discrimination under the law***

***Guidance protects rights of all New Yorkers by stating that enforcing dress codes, uniforms, and grooming standards that impose different requirements based on sex or gender may be a violation of the law***

**NEW YORK**—Today, the New York City Commission on Human Rights released new guidance that makes clear what constitutes gender identity and gender expression discrimination under the NYC Human Rights Law, making it one of the strongest in the nation in protecting the rights of transgender and gender non-conforming individuals. Although discrimination based on gender identity and expression has been illegal under the City's law since 2002, previous guidelines never articulated the range of violations of the law. Today's guidance provides bold and explicit examples of violations, sending a clear message to employers, landlords, business owners, and the general public what the City considers to be discrimination under the law. The guidance also offers best practices on how stakeholders can comply with the law.

"New York has always been a diverse and welcoming city and our laws are designed to protect every New Yorker, regardless of their gender identity," said **Mayor Bill de Blasio**. "Today's new guidelines strengthen those laws by ensuring that every transgender and gender non-conforming person in New York receives the dignity and respect they deserve. I look forward to working with Commissioner Malalis and other stakeholders to continue enhancing protections for our city's most vulnerable."

“Far too often, transgender and gender non-conforming individuals suffer discrimination, harassment, and violence on a scale many cannot imagine,” said **Carmelyn P. Malalis, New York City Human Rights Commissioner**. “New York City does not and will not tolerate discrimination on the basis of gender identity or gender expression. Today’s guidance makes it abundantly clear what the City considers to be discrimination under the law and the Commission will continue to aggressively enforce protections to make that promise a reality. Every New Yorker deserves to live freely and safely, free from discrimination.”

“In New York City we protect the rights of transgender and gender non-conforming people – in the workplace, in the supermarket, and on the street,” said **Counsel to Mayor Maya Wiley**. “Today’s bold new guidelines send a clear message that we will uphold the dignity of our residents, no matter their gender identity. The Commission under the Chair’s leadership is redoubling its commitment to protect every New Yorker from unlawful discrimination.”

Today’s guidance lists several ways employers, landlords, and business owners could violate the Law on the basis of gender identity and expression, including:

- **Intentionally failing to use an individual’s preferred name, pronoun or title.** For example, repeatedly calling a transgender woman “him” or “Mr.” when she has made it clear that she prefers female pronouns and a female title.
- **Refusing to allow individuals to use single-sex facilities, such as bathrooms or locker rooms, and participate in single-sex programs, consistent with their gender identity.** For example, barring a transgender woman from a women’s restroom out of concern that she will make others uncomfortable.
- **Enforcing dress codes, uniforms, and grooming standards that impose different requirements based on sex or gender.** For example, enforcing a policy that requires men to wear ties or women to wear skirts.
- **Failing to providing employee health benefits that cover gender-affirming care or failing to provide reasonable accommodations for individuals undergoing gender transition,** including medical appointments and recovery, where such reasonable accommodations are provided to other employees. (Federal and New York laws already require certain types of insurance to cover medically-necessary transition-related care.)

Violations of the New York City Human Rights Law could result in civil penalties of up to \$125,000 for violations, and up to \$250,000 for violations that are the result of willful, wanton, or malicious conduct. There is no limit to the amount of compensatory damages the Commission may award to a victim of discrimination.

New York City’s Human Rights Law now goes further in protecting the rights of transgender and gender non-conforming people than many large municipalities with gender identity protections. Cities such as Washington, D.C., San Francisco, CA, and Philadelphia, PA, do not articulate such specific protections under their laws.

The provision on dress code and grooming standards issued today goes further than even U.S. federal courts in protecting the rights of New Yorkers. Federal courts have upheld employment policies that require female bartenders to wear make-up or male servers to wear ties. Now, the Commission on Human Rights will find it a violation of the law if employers enforce strict dress codes and grooming standards for men and women based on gender or sex stereotypes.

Experts estimate that roughly 25,200 transgender and gender non-conforming people call New York City home. According to a recent survey, 75 percent of transgender or gender-non conforming New Yorkers reported harassment and mistreatment in the workplace, 20 percent were refused a home, 17 percent were refused medical care, and a staggering 53 percent were verbally harassed or disrespected in a place of public accommodation, including hotels, restaurants, buses, airports and government agencies because of their gender identity.

The New York City Human Rights Commission is the City agency charged with enforcing the New York City Human Rights Law, which protects against citywide discrimination based on 16 protected categories, including gender and gender identity. The Commission will investigate and prosecute all instances of gender-identity discrimination based on this legal guidance.

If a member of the public believes they have been discriminated against on the basis of gender identity or gender expression at work, in housing or in public accommodation, they should call 311 and ask for the Commission on Human Rights where they can discuss their situation and set up a meeting with a Commission attorney. Individuals also have the opportunity to go to court and file a claim under the New York City Human Rights Law.

Read the full guidance [here](#).

For more information, please visit [nyc.gov/humanrights](https://nyc.gov/humanrights).

"Discrimination based on gender identity or expression is an insidious problem and we must have zero tolerance for it," said **State Senator Brad Hoylman**. "Today's guidelines announced by the NYC Commission on Human Rights provide important clarification about the scope of protections for transgender and gender non-conforming people under New York City's laws. I applaud Mayor de Blasio and New York City Human Rights Commissioner Malalis for their unyielding commitment to New York's transgender community."

"New Yorkers should not lose their jobs, be evicted from housing, or be denied basic accommodations simply for being who they are," said **State Senator Daniel Squadron, lead sponsor of the Gender Expression Non-Discrimination Act in the State Senate**. "I applaud the NYC Commission on Human Rights for strengthening protections for transgender and gender non-conforming New Yorkers in New York City."

"The de Blasio administration is taking an important step forward in strengthening New York City's protections against discrimination based on gender-identity or expression. These guidelines should serve as a model as we continue the effort to secure statewide non-discrimination protections against the transgender community," said **Assembly Member Richard N. Gottfried**, sponsor of the Gender Expression Non-Discrimination Act (GENDA) which would extend legislative protections statewide and has passed the New York State Assembly several years in a row.

"Although we've seen success on issues such as marriage equality, the transgender community still faces unbelievable discrimination every day," said **Council Member Corey Johnson, Facilitator of the Council's LGBT Caucus**. "Transgender New Yorkers are due the full protections of our City's Human Rights Law, and these steps will help ensure that they receive these protections. I want to congratulate and thank Mayor de Blasio and CCHR Chair Carmelyn P. Malalis for taking these important steps. The fight for equality is not over. "

"Every New Yorker deserves to be proud of who they were born to be," said **Council Majority Leader Jimmy Van Bramer**. "I applaud the New York City Commission on Human Rights for doing the right thing and strengthening gender identity and expression protections for our city's vibrant transgender community."

"Transgender and gender non-conforming New Yorkers deserve to live their lives free of discrimination," said **Council Member Daniel Dromm**. "As a Council Member representing one of the largest transgender populations in the city, I applaud the NYC Commission on Human Rights for releasing this new guidance, a significant step toward safeguarding the rights of a community which has been marginalized for far too long. I will continue to work with the Commission and my colleagues in government to strengthen protections for all transgender and non-confirming people who call NYC home."

"Today's announcement is a welcome step in the direction of greater justice for our trans\* and gender non-conforming community. The expansion of the Human Right's Law to include specific protections as related to the presentation of gender is a mark of our commitment to just lived experience for every single New Yorker. I applaud Mayor de Blasio and the Commission on Human Rights on this move, and I look forward to continuing to work on behalf of the LGBT community. There is much work ahead," said **Council Member Carlos Menchaca**.

"In April 2002, the New York City Council passed the Transgender Civil Rights legislation extending non-discrimination protections to transgender people in New York City in order to provide basic protections to trans people in employment, housing, and public accommodation. However, transgender and gender non-conforming people still face discrimination on a daily basis. This new guidance released by the Commission on Human Rights serves to strengthen and clearly identify when someone fails to provide a safe and respectful environment to trans and gender non-conforming individuals in the workplace or housing accommodations. There should be no excuse to the ill behavior of many employers and landlords who have undoubtedly insulted New Yorkers because of their gender identity, preferred gender pronouns, or appearance," said **Council Member Rosie Mendez**.

"The new detailed guidance and clarity on protections under the Human Rights Law will ensure equal treatment and safety for the city's transgender and gender non-conforming individuals. It is another step our City is taking to make sure our laws are protecting vulnerable communities and are positively impacting people's lives," said **Council Member Ritchie Torres**.

"Laws that protect gender identity nondiscrimination are essential, and it is detailed guidance like this that makes the promise of the law a reality in the everyday lives of transgender people," said **Mara Keisling, Executive Director of the National Center for Transgender Equality**. "The New York City Commission on Human Rights' guidance provides a forward-thinking model on how these laws should be interpreted and enforced to help promote an environment of respect for all transgender New Yorkers."

"By issuing some of the strongest and most comprehensive legal guidance in the country, New York City has taken a major step toward ensuring that transgender and gender nonconforming New Yorkers can enjoy dignity, respect and access to opportunity in our city," said **Donna Lieberman, Executive Director of the New York Civil Liberties Union**. "The Commission's guidance addresses many of the most common and pervasive forms of harassment and discrimination that transgender and gender non-conforming New Yorkers face every day, and it unequivocally confirms that they are unlawful. With vigorous enforcement, the Commission's guidance will go a long way toward ensuring fairness and freedom for all New Yorkers."

"The Center has a long history of working with the Mayor's Office and the New York City Commission on Human Rights to protect our transgender and gender non-conforming community members and provide the basic human rights that all New Yorkers deserve," said **Glenda Testone, Executive Director of The Lesbian, Gay, Bisexual & Transgender Community Center**. "We look forward to collaborating with the Commission to enhance the human rights of this highly vulnerable group of New Yorkers.

"Gender-based discrimination is still an everyday reality for far too many in our community," said **Sasha Alexander, Director of Membership at the Sylvia Rivera Law Project**. "These new guidelines, however, send a clear message that discrimination against transgender and gender non-conforming individuals in all its forms is against the law in New York City. Laws across the country should adopt similarly strong interpretations so that the dignity and worth of our community is reflected everywhere we go."

"We commend the New York City Commission on Human Rights for the acknowledgement and work to ensure transgender and gender non-conforming New Yorkers are protected in employment and public accommodations," said **Beverly Tillery, Executive Director of the New York City Anti Violence Project**. "This is a critical step to creating a city that is safe and supportive of all its residents."

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