


**RIGHTS OF THE LGBT
COMMUNITY IN THE
WORKPLACE**
April 6, 2016
Philadelphia, PA

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We will be looking at:

- Identifying & understanding the rights and potential rights of gay, lesbian, bisexual and transgender employees in private and public workplaces.
- What employers should know about the EEOC and the enforcement protections for LGBT workers including LGBT-related lawsuits under Title VII challenging alleged sex discrimination, sexual orientation and gender identity.
- What employers should know about the Philadelphia Commission on Human Relations and the Philadelphia Fair Practices Ordinance .
- Information about the Office of LGBT Affairs in the City of Philadelphia and city legislation.
- Best practices for employers in preventing employment discrimination of the LGBT community in the workplace.

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**Overview of the EEOC, the PCHR &
the Phila. Office of LGBT Affairs**


- EEOC enforces federal laws including Title VII of the Civil Rights Act of 1964 that make it illegal to discriminate against job applicants and employees because of certain protected categories including sex
- Philadelphia Office of LGBT Affairs seeks to elevate the diversity & unique needs of the LGBT community
- Philadelphia Commission on Human Relations (PCHR) enforces Philadelphia Fair Practices Ordinance (PFPO)

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DEFINITIONS*

- **Gender Identity** – One’s internal sense of being male, female, neither of these, both, or other gender(s).
- **Gender Expression** – The physical manifestation of one’s gender identity through clothing, hairstyle, voice, body shape, etc. (typically referred to as masculine or feminine).
- **Sexual Orientation** – A person’s physical, romantic, emotional, aesthetic and/or other form of attraction to others.


*Source: Trans Student Educational Resources

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DEFINITIONS*


- **Transgender** – Encompassing term of many gender identities of those who do not identify or exclusively identify with their sex assigned at birth.
- **Cisgender** – Term for someone who exclusively identifies as their sex assigned at birth.
- **Transition** – A person’s process of developing and assuming a gender expression to match their gender identity. Can include: coming out to one’s family, friends and/or co-workers; changing one’s name and/or sex on legal documents; hormone therapy; and possibly some form of surgery.

*Source: Trans Student Educational Resources

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STATISTICS

- D.C. Office of Human Rights (OHR) conducted resume testing among District of Columbia employers in 2015, which was the first government-run testing project in the nation to analyze how employers respond to resumes from applicants perceived as transgender compared with resumes of applicants perceived as cisgender.
- According to the OHR, the findings showed employers frequently offered interviews to less qualified applicants perceived as cisgender over more qualified applicants perceived as transgender.

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Title VII of the Civil Rights Act

- Sex discrimination provisions
- Whether Title VII explicitly includes sexual orientation or gender identity
- Transgender Status (*Macy v. Dept. of Justice*, EEOC Appeal No. 0120120821, 4/20/12)
- Sexual Orientation (*David Baldwin v. Dep't of Transportation*, EEOC Appeal No. 0120133080, 7/15/15)

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Title VII of the Civil Rights Act EEOC Total LGBT Charges

- FY 2013 Total LGBT = 765*
- FY 2014 Total LGBT = 1,093
- FY 2015 Total LGBT = 603**

*1/1/13-9/30/13
** 10/1/14-3/31/15

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LGBT-RELATED LAWSUITS UNDER TITLE VII

The EEOC has filed LGBT-related lawsuits under Title VII challenging alleged sex discrimination.

EEOC Private Sector Litigation in 2016

- *EEOC v. Scott Medical Health Center, P.C.* (U.S. District Court for Western District of PA)
- *EEOC v. Pallet Companies, d/b/a IFCO Systems NA* (U.S. District Court for District of Maryland)

EEOC Private Sector Litigation prior to 2016

- *EEOC v. Deluxe Financial Services Corp.* (Minnesota, 2015)
- *EEOC v. Lakeland Eye Clinic* (Florida, 2014)
- *EEOC v. R.G. & G.R. Harris Funeral Homes* (Michigan, 2014)
- *EEOC v. Boh Bros. Constr. Co. LLC* (5th Circuit, 2011)

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Philadelphia Fair Practices Ordinance


What is covered?

- Gender Identity
- Sexual Orientation
- ✓ Employment
- ✓ Public Accommodations including delivery of City Services
- ✓ Housing & Real Property



Office of LGBT Affairs

<p>City Charter</p> <ul style="list-style-type: none"> • November 2015 amendment to City of Philadelphia Charter to make permanent the Office of LGBT Affairs 	<p>Legislation</p> <ul style="list-style-type: none"> • Gender-neutral facilities • Guide to facilities across the City
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Best Practices for Employers

- Anti-discrimination & Anti-harassment policies including sexual orientation, gender identity and transgender status
- Provide transitioning employees with same level of facilities access available to other employees balanced by needs and comfort of all co-workers
- Educate supervisors working with gender-diverse or transitioning employees
- Recognize same sex couples and their families with equal access to company benefits including FMLA
- Confidentiality and Privacy



