

## Resource- Gender Expression

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On June 13, 2012, the Ontario legislature passed an amendment to the Ontario Human Rights Code which extends protection against discrimination and harassment on the ground of gender expression. Discrimination is behavior that “excludes individuals or treats them unfairly because they are members of specific groups<sup>1</sup>”. Harassment is a course of “vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”<sup>2</sup>

The Code specifies that every person has a right to equal treatment without discrimination because of gender expression with respect to receipt of goods and services, accommodation, contracting, employment, and membership in a trade union, trade or occupational association or self-governing profession.

### What is Gender Expression?

Gender expression refers to the way a person publicly expresses or presents their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language, and voice. A person’s chosen name and pronoun are also common ways of expressing gender. All people, regardless of their gender identity, have a gender expression and they may express it in any number of ways.<sup>3</sup>

Generalizations/assumptions made about the attributes of people due to their perceived gender are known as gender stereotypes. Gender stereotypes are one of the root causes of discrimination against the 2SLGBTQ+ community.

### When is it Discrimination?

Individuals who do not conform to gender stereotypes in their appearance or behavior can be targets of homophobic attitudes and behaviors. Homophobia can be defined as negative attitudes, feelings, or irrational aversion to, fear or hatred of 2SLGBTQ+ people and communities. Discriminatory actions based on gender identity can be overt, subtle or systemic, such as that which arises from the application of a non-inclusive rule or policy. For example, overt actions such as bullying, homophobic jokes or remarks, covert actions such as the custom use of gender-normative language in class discussions, or gender normative language is language that conveys or reinforces gender-stereotypes.

Examples of discriminatory behaviors because of gender identity:

- Jokes, name-calling, or the public display of pictures that insult or offend an individual based on their gender identity.
- An employee wears professional clothing in line with their gender identity. The manager informs the employee they will no longer qualify for promotions or job training, because customers and co-workers will not be comfortable with them.
- A trans woman is denied access to the women’s washroom at her place of employment. Her manager defends this by explaining that other staff have expressed

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<sup>1</sup> <https://www.ohrc.on.ca/en/iii-principles-and-concepts/2-what-discrimination>

<sup>2</sup> [http://www.ohrc.on.ca/sites/default/files/policy%20on%20preventing%20sexual%20and%20gender-based%20harassment\\_2013\\_accessible\\_1.pdf](http://www.ohrc.on.ca/sites/default/files/policy%20on%20preventing%20sexual%20and%20gender-based%20harassment_2013_accessible_1.pdf)

<sup>3</sup> <https://www.the519.org/education-training/glossary/#G>

discomfort. This workplace requires a policy that ensures the employee's right to access the washroom, while providing education to resolve staff concerns and to prevent future harassment and discrimination.

Organizations cannot discriminate based on third-party bias, or leave harassment unchecked: they have an obligation to provide a non-discriminatory environment for trans people. Individuals should be given access to the washroom and change facilities that match their lived gender, unless they request other accommodation (such as for safety or privacy reasons).

It is imperative that Humber employees engage in ongoing education in the area of human rights to gain strategies and tools that will assist in the creation of inclusive and equitable environments at Humber.

### **Confidentiality of Information**

An employer or service provider who legitimately requires and collects personal information that either directly or indirectly identifies a person's sex, as being different from his or her gender identity, must ensure the maximum degree of privacy and confidentiality. This applies in all situations and circumstances including employment records and files, insurance company records, medical information, etc.