



Transgender Working People Have Specific Needs – Unions Are the Answer

At a glance:

- Nearly half (48.8%) of transgender employees reported experiencing discrimination (being fired or not hired) based on their LGBTQ+ status compared to 27.8% of cisgender LGBTQ+ employees.¹
- Union contracts are the best legal form of protection against employment discrimination for transgender working people. Union contracts should protect workers at every point of their transition and they must also contain strong language to encourage the hiring, developing, and promoting of transgender people.
- Transgender individuals may have unique healthcare needs before, after, and during transition, as well as outside of transition altogether. Unions can ensure that their transgender members have the healthcare necessary for their particular needs.
- Reasonable access to a restroom is a workplace safety and health concern. Transgender employees must have access to restrooms that correspond to their gender identity, in compliance with OSHA guidelines.

From workplace safety to fair access to housing, transgender people are under attack. They are three times more likely than the general population to be unemployed and twice as likely to live in poverty.² Once they have a job, they face losing it because of their gender identity or expression, being denied a promotion, or being verbally harassed, physically attacked, and/or sexually assaulted at work.³ Most insidiously, trans working people have come to expect this kind of mistreatment at work. **A full 77% of respondents to the US Transgender Survey reported taking steps to avoid mistreatment in the workplace**, such as hiding or delaying their gender transition or even quitting their job.⁴

Transgender people are also union members. The US Transgender Survey found that of the respondents who were employed, 13% were members of a labor union or an employee association similar to a union.⁵ This compares to the 12% of wage and salary workers in the US who are members of a union.⁶

We know that the power of unions, when leveraged properly, can protect transgender working people from the kinds of discrimination that have become too typical in the workforce. Nearly every union contract includes a prohibition of discrimination based on sex, whether it's included directly in the text or included by reference to

¹ <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf>

² NCTE, US Transgender Survey, pg.140

³ According to the US Transgender Survey, 30% of respondents who had a job in the past year reported being fired or denied a promotion because of their gender identity or expression, and 15% reported being verbally harassed, physically attacked, and/or sexually assaulted while at work.

⁴ Pg.148

⁵ Pg.140

⁶ Bureau of Labor Statistics. (2016). *Union Affiliation of Employed Wage and Salary Workers by Selected Characteristics, 2014-2015 Annual Averages*.

federal law. After the Supreme Court ruling in *Bostock v. Clayton County, Georgia* in June 2020, the federal prohibition on sex discrimination now protects LGBTQ people as well⁷.

Union contracts with non-discrimination clauses that include gender identity and expression are still advised because there are issues that aren't explicitly addressed in federal law, but every union is now obligated to protect their transgender members from discrimination. Unions still have space to lead in this fight. Everything from healthcare that includes gender-affirming surgery to establishing trans and non-binary inclusive restrooms as a workplace safety concern are issues where unions can show leadership.

There are myriad of ways that transgender people are discriminated against at work. Here are just a few:

- **Being fired:** Until June 2020, it was perfectly legal to fire a transgender worker for their gender identity or expression in more than half the country.
- **Hiring & promotions:** Transgender employees are significantly more likely to experience discrimination with regard to hiring and promotions than cisgender employees: Nearly half (48.8%) of transgender employees reported experiencing discrimination (being fired or not hired) based on their LGBTQ+ status compared to 27.8% of cisgender LGBTQ+ employees. More specifically, over twice as many transgender employees reported not being hired (43.9%) because of their LGBTQ+ status compared to LGBTQ+ employees (21.5%).⁸
- **Unsafe or inaccessible bathrooms:** Reasonable access to a restroom is a workplace safety and health concern. For transgender workers, entering a restroom in public or at work can be a terrifying experience, and sometimes even physically dangerous.
 - OSHA issued guidelines for transgender restroom access at work: “Every employee, including transgender employees, should have access to restrooms that correspond to their gender identity.”
- **Transgender-inclusive healthcare:** The first step to ensuring transgender union members have access to proper medical care is to remove trans-exclusionary language from insurance policies.
 - **Transition-related care:** Not all trans people decide to undergo gender confirmation surgery, but those who do decide to undergo surgery must be covered.
 - **Cost:** Employers and insurers may claim this coverage is expensive. Studies have shown otherwise. It is important to remember that unlike a benefit such as vision or dental, this is a health benefit that a finite number of members will ever use. At the same time, it can have an extraordinary impact on the life of the member needing this coverage.
 - **Medical necessity:** To address management or insurer concerns of opening the door to procedures such as elective cosmetic surgery, it is better recommended to use language such as, “medical necessity as recommended by the guidelines of the World Professional Association for Transgender Health.”

All of these issues that transgender working people face are discrimination that unions now have more tools than ever to fight.

What can Labor Unions Do?

- **A collective bargaining agreement is enforceable in every state.** We can protect our members by ensuring our contracts have strong anti-discrimination language that prohibits discrimination the basis of sexual orientation or gender identity and expression. (ex: *The Union and the employer agree that they will not discriminate against any employee because of race, color, national origin, religious or political affiliation, sex, disability, age, sexual orientation, gender identity or expression, or for lawful association activity.*)

⁷ Supreme Court. (2020). *Bostock v. Clayton County*.

⁸ <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf>

- In many communities, labor’s voice is powerful. When our leaders speak out publicly against the conditions their transgender members face at work, it can have a dramatic impact on the lives of their members. **We must stand up and speak out for our transgender members.**
- Labor’s legislative advocacy is in support of our members’ needs. **It is vital that we add LGBTQ nondiscrimination to our legislative portfolios in every lawmaking body where we have a voice.** Labor has legislative advocates – both paid and volunteer – in every state and there are LGBTQ members of every union.
- **Pride at Work staff is always ready to provide support on this or other LGBTQ-related topics.** – We can help ensure your contract language is inclusive of LGBTQ working people and uses the most up to date language. We can also help develop, or review talking points to help hone your message when talking to the media or lobbying state and local government. Other resources include training programs or sessions for leadership, staff, or rank-and-file members; convention, conference, or meeting speakers and panelists; and much more.

Scan this code for an electronic version of this document or visit:
<https://pride-at.work/transgender>

