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www.robinsonheeneey.com

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Ontario Human Rights Commission releases “Policy on preventing discrimination because of gender identity and gender expression”

James Heeneey spoke at the 3rd Discipline and Employment Termination course

3rd Discipline and Employment Termination

Under the *Human Rights Code*, employees are protected from discrimination and harassment on the grounds of gender identity and gender expression. These grounds are two of the more recent additions to the grounds of discrimination under the Code. As such, we strongly recommend that employers review their Respect in the Workplace policies (or other policies that deal with discrimination and harassment in the workplace) and training programs with employees. In the review, employers want to ensure that:

- Their policies include gender identity and gender expression; and
- Employees are trained to identify unique issues relating to accommodation.

As with the other prohibited grounds of discrimination found within the Code, employers have an obligation to accommodate an employee’s gender identity and gender expression needs to the point of undue hardship. The “Policy on preventing discrimination because of gender identity and gender expression” (the “Policy”) offers the following helpful guidelines for employers:

1. Transgendered people and other gender non-conforming people should not be treated negatively in the workplace.
2. An organization should have a valid reason for collecting and using personal information that identifies a person’s gender and should keep this information confidential.
3. Transgendered people should have access to washrooms, change rooms and other gender specific services and facilities based on their lived gender identity.
4. Dress code policies should be inclusive and flexible. They should not prevent transgendered people and others from dressing according to their expressed gender.
5. Employers should design or change their rules, practices and facilities to avoid negative effects on transgendered people and to be more inclusive for everyone. Any exceptions must be legitimate in the circumstances, and transgendered people must be provided any needed accommodation unless it would cause undue hardship.
6. The duty to accommodate the needs of transgendered people is a shared responsibility. Everyone involved should cooperate in the process, exchange only necessary information and explore options while respecting privacy.
7. Employers are liable for any discrimination and harassment that occurs. They are also liable for not accommodating a transgendered person’s needs unless it would cause undue hardship. They must deal with complaints, take steps to prevent problems and provide a safe, welcoming environment for transgendered people.
8. Employers should take steps to learn about the needs of transgendered people, look for barriers, develop or change policies and procedures and undertake training. This will help to ensure that transgendered people and other gender non-conforming people are treated with dignity and respect and enjoy equal rights and freedom from discrimination.

May,
2014

James Heeneey will be speaking at the Federated Press on a topic in employment law

Federated Press

Sept. 24,
2014

Sarah Vokey will be speaking at Humber College’s Human Resources Faculty on investigations



The entire Policy and further information and guidelines can be found here:

<http://www.ohrc.on.ca/en/policy-preventing-discrimination-because-gender-identity-and-gender-expression>.

