

How to Build a Trans-Inclusive Work Environment

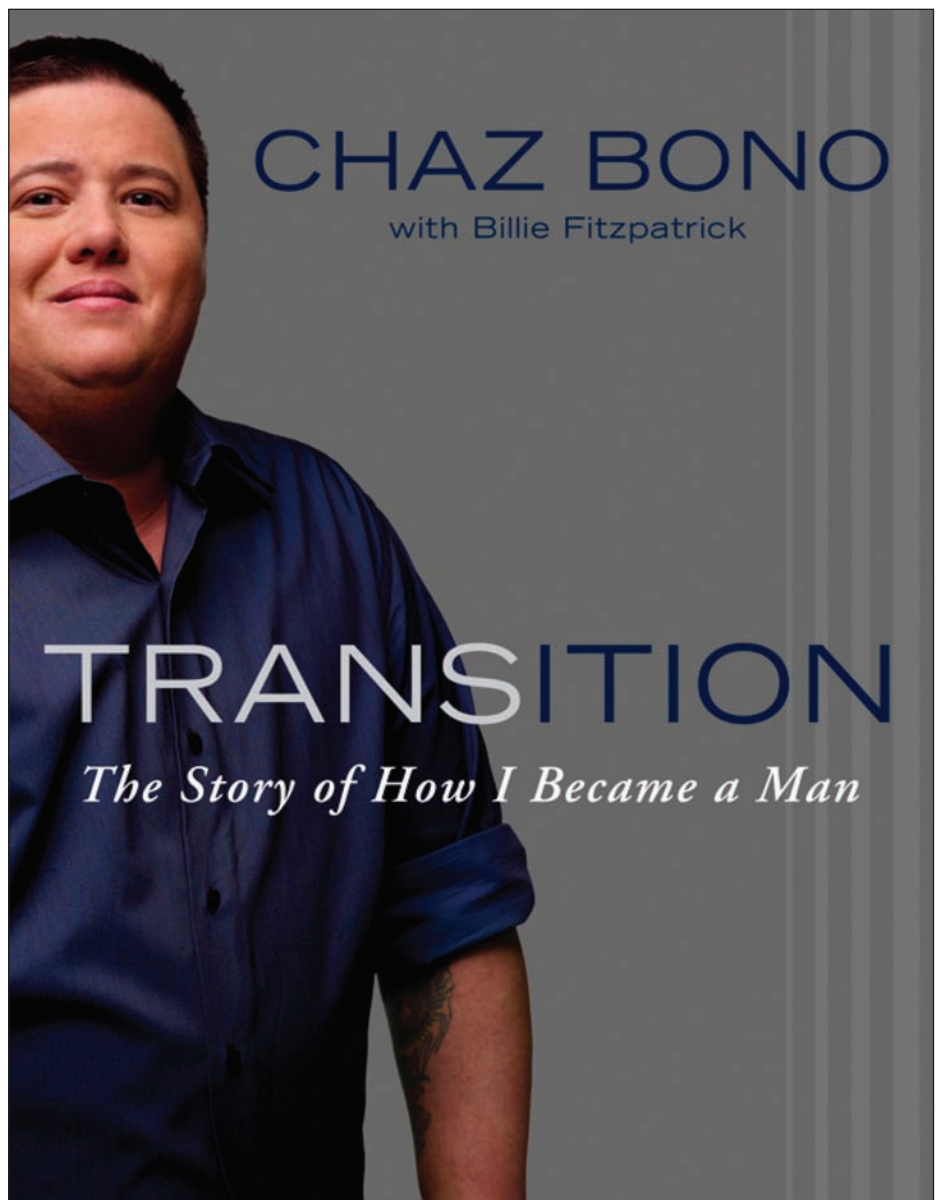
Three Key Lessons Every Employer Can Learn From Chaz Bono

Last year, publication of Chaz Bono's book "Transition: The Story of How I Became a Man" generated unprecedented interest among mainstream media outlets in the challenges faced by transgender communities. Although the media attention surrounding Bono has focused predominantly on the social and physical aspects of his gender transition, in a May 2011 interview, he told New York Magazine the most pressing issue facing the trans community is workplace discrimination.

Studies certainly show that transgender individuals disproportionately experience both unemployment and workplace mistreatment, and, currently, no federal law expressly prohibits discrimination in employment based on gender identity. Nonetheless, in the absence of any federal law, legal protections are emerging for trans employees at state and local levels.

In fact, in 2011, four states – Massachusetts, Connecticut, Nevada and Hawaii – enacted legislation outlawing discrimination against transgender workers, which brought the total number of states with trans-inclusive non-discrimination laws to 16.

Pennsylvania is not one of the 16 states that prohibit employment discrimination based on gender identity. Nonetheless, transgender employees in Pennsylvania are not necessarily without any workplace protection. To the contrary, 27 municipalities across the state have passed local ordinances that ban workplace discrimination based on gender identity. Eight of these local ordinances were passed in 2011. Cheltenham Township passed the 27th last month. Other local municipalities that have enacted bans include Swarthmore; Lower Merion Township; West Chester; Landsdowne; Doylestown; Haverford; Conshohocken; Springfield Township



(Montgomery County); Newtown Borough; Whitmarsh Township and Jenkintown.

In light of these emerging legal protections, this article focuses on how employers can build a transgender-inclusive work environment with three key strategies from Bono's book.

PROMOTE GENDER SELF-DETERMINATION AT WORK.

Creating a trans-inclusive work environment necessarily involves affirming and supporting each individual's right to self-determine gender. Self-determining your gender means that you alone know what gender

you are; you make your own choices about how you will express your gender; and you make these determinations without experiencing any resistance or negative consequences in any aspect of your life, including work. In “Transition,” Bono explains how difficult it was for him to function in a world where other people decided how to refer to his gender and how he must express his gender. Regarding his early career ambitions, he said:

I remember thinking at that moment how cool it would be to run for office one day. I began to envision my own career in politics and how proud I'd be to serve my country. But then it occurred to me that I'd have to be called a “congresswoman” – and that one word just stopped me short.

About his music career, he further explained:

Appearance is a major aspect of the music business. . . . Nothing made me feel more uncomfortable and disconnected from myself than having to get into full hair and makeup and whatever outfit the stylist chose for me. Then I'd have to pose like a woman while somebody took my picture. For a man living in a female shell, even a man who didn't yet know he was a man, this ordeal felt degrading and humiliating.

Certainly, these anecdotes reflect the importance of gender self-determination for trans people's success in the workplace.

Moreover, this concept of gender self-determination is often reflected in interpretive compliance guidelines for trans-inclusive non-discrimination laws. For example, the Gender Identity Guide published by the Philadelphia Commission on Human Relations provides that unlawful gender identity discrimination under the Fair Practices Ordinance includes persistently referring to an employee using pronouns that are not gender identity-appropriate; refusing to treat an employee in accordance with that person's gender identity; prohibiting an employee from using a gender identity-appropriate restroom or locker room; inquiring into an employee's transition-related surgical or medical history; and requiring an employee to provide legal or medical documentation as a precondition to allowing that employee to express their gender identity at work.

Although not every jurisdiction has outlawed gender identity discrimination, proactively adopting workplace policies and practices that affirm each individual employee's right to gender self-determination is a critical component of inclusion.

BE “OUT” ABOUT YOUR COMMITMENT TO TRANS INCLUSION.

In “Transition,” Bono wrote about his fear that the world would react negatively to his gender transition. He explained:

Transitioning often leads to loss of jobs, friends, spouses, and family members. And even when relationships aren't severed, they are often pushed almost to breaking points. Before I made my decision to start the process, I was terrified about how all of those I was close to would handle and feel about my transition. . . . At that time I was still convinced that if people knew my secret, they would respond with open hostility. . . . I couldn't conceive that anyone could possibly understand or accept me if I transitioned.

Just as Bono felt paralyzed by the hostility and non-acceptance he believed he would experience if he transitioned,

trans employees are, more often than not, similarly fearful that their employers and co-workers will mistreat them if they come out as trans.

These fears are not unfounded. According to a recent survey, 90 percent of trans and gender non-conforming individuals report that they have directly experienced harassment or mistreatment at work or felt forced to take protective actions that negatively impacted their careers or their well being, such as hiding who they were, in order to avoid workplace repercussions. Fifty percent of respondents reported harassment based on their status as a transgender person. Forty-seven percent said they had experienced an adverse job outcome, such as termination, due to being transgender or gender non-conforming.

These statistics are eye-opening. Employers, however,

have an opportunity – and, in some cases, an obligation – to create change. Although employers increasingly include gender identity and expression in their non-discrimination policies, more is necessary to create and maintain an inclusive work environment where trans employees are safe and can be open about who they are without fear of repercussion.

The existence (or non-existence) of internal resources for trans employees can send a powerful message to your workforce about your organization's commitment to trans inclusion. Written materials, such as the employee handbook or company intranet site, can be used to reinforce messages of inclusion and to communicate workplace policies and processes that are relevant and useful to trans employees. These written materials are especially critical resources for trans employees who are not out at work and/or do not feel

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comfortable discussing their gender with management or their co-workers.

Many companies, including numerous law firms, have also begun to establish and actively support LGBT employee resource groups. These groups can empower trans-identified attorneys to build community and increase visibility within their companies. Other effective ways for employers to visibly support trans employees include participating in career fairs directed at trans and gender variant job candidates; supporting community organizations and events focused on trans equality; and using trans-inclusive, culturally competent language and images in marketing and advertising initiatives.

EDUCATE YOURSELF AND YOUR WORKFORCE.

Trans people's negative workplace experiences and diminished employment opportunities stem largely from transphobic bias and misconceptions about trans people's lives. Bono explained how other people's biases delayed his transition and negatively affected his quality of life. He recognized, however, that he

could not possibly take on the task of educating everyone around him. Specifically, he said:

I experienced another incredible moment of clarity about myself. I understood for the first time that I couldn't focus on how others were going to react if I transitioned. I could not possibly control their reactions, their feelings, their behaviors toward me. I had been so consumed with not upsetting anyone, but I could not continue deferring my own needs. Now I accepted that these people were all adults. It wasn't my job to make them okay; they had to make themselves OK with me.

This advice is equally useful for employers. Although they certainly can and should seek input from trans employees, employers cannot rely on community members to educate them or their workforces. Instead, employers should take the initiative to develop cultural competence and educate their employees.

Incorporating gender identity discrimination and harassment training

into new hire orientation programs is a key first step. Supervisors and human resources personnel, however, can usually benefit from additional, more extensive training and resources on, among other topics, identifying and treating workplace exchanges that reflect transphobic bias.

In light of emerging legal protections for trans employees, as well as the positive impact that diversity and inclusion is known to have on businesses, it is no wonder that employers are increasingly working toward trans competency and inclusion. Employers that promote gender self-determination at work; are visibly committed to trans inclusion; and provide trans-competency training to their workforce are well on their way to creating a supportive and engaging work environment for trans employees. ■

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