

We've Got Work to Do: Workplace Discrimination and Employment Challenges for Trans People in Ontario



Trans PULSE E-Bulletin

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Trans PULSE is a community-based research project investigating the impact of social exclusion and discrimination on the health of trans people in Ontario, Canada. Funded by the Canadian Institutes of Health Research, this project is a partnership between researchers, trans community members, and community organizations committed to improving health outcomes for trans people. We hope that health professionals, policy makers, trans communities and allies will use the results of this research to remove barriers, create positive changes, and to improve the health and well-being of trans people.

Background

A key to good health and quality of life is being fully included as a valued member of society, having access to a safe employment setting free of harassment and which provides meaning on a daily basis, and being able to rely on a secure income from one's employment. There is a considerable negative impact when these social determinants of health are absent, compromised, or threatened. Recent results from the U.S. have documented high levels of discrimination and harassment in employment settings,¹ but until now similar data have not been available in a Canadian context. While some non-explicit employment protections are in place for trans people in Canadian law, employment discrimination still exists.² Previous Trans PULSE findings showed that while 71% of trans people have at least some college or university education, about half make \$15,000 per year or less.³ In light of this we sought to better understand the unique barriers to employment faced by trans Ontarians, and the discrimination they experience in the workplace.

Our Approach

Surveys were completed by 433 trans people age 16 or older who lived, worked or received health care in Ontario. To increase accessibility, participants completed their surveys either online, via paper copy, or by telephone with a language interpreter, where necessary. To participate, individuals indicated that they fit under the broad umbrella term of "trans", identified with a range of gender identities (e.g. transgender, Two-spirit, transsexual, genderqueer) and were not required to have begun a social or medical gender transition.

Key Findings

Just over one third of trans Ontarians were working full-time and another 15% had part-time jobs. One out of every five were unemployed or on disability, one-quarter were students and 3% were retired.

While some trans people are able to choose when and to whom they disclose information about their identity, those who are visibly identifiable do not have this choice. Twenty-five percent of trans Ontarians felt they passed as cisgender (meaning they appear to be a non-trans person) less than half the time, leaving them vulnerable to harassment and discrimination in the workplace. In order to take advantage of

	Total %
Current Employment	
Full-time	37
Part-time	15
Unemployed/Disability pension	20
Retired	3
Student	25
Pass as cisgender (non-trans)	
Always	22
Most of the time	45
About half the time	8
Less than half the time	23
Never	2
Can get academic transcripts with current name and gender	
Yes	30
No	58
Not applicable	12
Can get letters of reference with current name and gender	
Yes	57
No	28
Not applicable	16
Ever not provided references because trans	
Yes	27
No	73

employment opportunities, job candidates are often required to provide references from previous employers and proof of credentials. For trans people, this often necessitates the complicated task of accessing and providing records and other personal documents from before their transition while trying to limit the disclosure of personal information and any potential resulting discrimination or harassment. Outing oneself to former employers and schools or to prospective employers is a daunting task and carries a number of risks. More than half of trans Ontarians were unable to get academic transcripts that reflect their current name and gender, and another 28% could not get letters of reference with their current name and gender.

Our results highlight very challenging circumstances for trans Ontarians when facing employers' and workplace attitudes. The lack of trans-positive attitudes as well as trans-inclusive policies within workplaces presents access barriers to employment and creates unhealthy and unsafe working conditions. Of trans Ontarians, 18% had been turned

down for a job because of their trans identities or histories and another 32% were unsure if they were turned down because they were trans. 13% say they were fired for being trans and another 15% were fired from their jobs, but were unsure if it was because they were trans. For trans Ontarians who transitioned in the workplace, only one in five said that co-workers were always accepting and 38% said they were mostly accepting. Forty-two percent of respondents received co-worker acceptance half or less than half of the time, including the 15% that said that co-workers were *never* accepting of them.

In light of this negative job climate, many trans people are forced to make difficult choices to help protect themselves and maximize their well-being. Seventeen percent reported declining a job offer due to the lack of a trans-positive work environment. Further, 27% reported that they had, at least once, chosen not to provide letters of reference because they were trans. While trans Ontarians are exercising the best options available to them, an economy in which trans people are forced to decline employment or not fully present their work histories does not reflect the best interests of trans communities, nor society at large.

Impact on Policy and Practice

As trans people clearly face significant challenges in accessing and maintaining safe and supportive employment, our results point to the importance of creating trans-positive workplace environments. In light of these employment challenges, the following steps should be taken to help ensure a safe, equitable and respectful workplace.

Employment non-discrimination and anti-harassment provisions should include explicit mention of gender identity and gender expression. Employers must be aware of the need to maintain confidentiality about the medical and personal information of trans employees. Recruitment materials should make it clear that an employee's gender identity and expression will be respected and interviewers and human resource departments should have a process in place for employees whose legal name or sex designation does not reflect their chosen name or gender presentation. Dress codes should be gender neutral and applied

	Total %
Ever declined job offer due to lack of trans-positive environment	
Yes	17
No	83
Ever turned down for job because trans	
Yes	18
No	50
Unsure	32
Ever fired or constructively dismissed because trans	
Yes	13
No	72
Unsure	15
If transitioned in workplace, how often were co-workers accepting?	
Always	21
Most of the time	38
About half the time	17
Less than half the time	10
Never	15

uniformly regardless of whether or not an employee is cisgender (non-trans) or trans. Employers that provide diversity training should include gender diversity modules, regardless of whether the employer has a known trans employee.

In Canada, court and human rights tribunal decisions make it clear that trans people's human rights are protected using the grounds of sex and/or disability. However, "gender identity" is not explicitly listed as a prohibited grounds of discrimination in the Canadian Human Rights Act, nor in any of the provincial human rights codes with the exception of the Northwest Territories.⁴ This leaves Canadian trans people without the full protection of the law as employers, and indeed many trans people, are not aware that these protections exist. Explicit mention of gender identity and gender expression would create the necessary public education mandate required to advance trans human rights and would make it clear to employers that prejudice and discrimination based on these grounds are not only wrong, but also against the law. Further, existing vital statistics legislation is out-dated and creates access barriers to gender-appropriate identification documents for trans people, which in turn creates additional barriers to employment. Consequently, these provisions must be revised to reflect the diverse realities of trans lives, bodies and experience.

Thankfully, there is some cause for optimism. Bill C-389 (an act to amend the Canadian Human Rights Act and Criminal Code to include gender identity and gender expression) was passed by the Canadian House of Commons in early 2011, though with the dissolution of the government the Bill died in the Senate before it could be passed into law. At roughly the same time, Bill 70 (An Act to amend the Human Rights Code respecting gender identity) was introduced in the Ontario Legislature where it remains in process. Hopefully, as awareness grows and more documentation of the issues becomes available, these and other important legislative and policy measures will be successfully implemented.

References

1. Grant JM, Mottet LA, Tanis J, Harrison J, Herman JL, Keisling M. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.
2. Nussbaum NN. Human Rights and Common Transgender Employment Law Issues. *Law Society of Upper Canada - The Six Minute Employment Lawyer*. 2010; 8-1 – 8-17.
3. Bauer G, Boyce M, Coleman T, Kaay M, Scanlon K, Travers R. Who are trans people in Ontario? *Trans PULSE e-Bulletin* 2010;1(1).
4. Canadian Human Rights Commission. Prohibited Grounds, 2006. Retrieved May 5, 2011 from http://www.chrc-ccdp.ca/pdf/prohibit_en.pdf.

Contributing Authors:

Greta Bauer, Nicole Nussbaum, Robb Travers,
Lauren Munro, Jake Pyne, Nik Redman

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For more information:

info@transpulseproject.ca or 1-877-547-8573 (Canada and U.S.)
+01 (519) 661-2111 ex: 84289 (International)

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