

A Sense of



Belonging.



The landscape for transgender employees is changing for the better, thanks to a new administration and a recent Supreme Court decision.

By Andrew Deichler
Theresa Agovino, the workplace editor for SHRM, also contributed to this article.



Victor Lim wasn't sure whether to reveal he is a transgender man when he applied for a position at Bank of America in January 2020.

His loved ones advised him against divulging that information, fearing how the company and his co-workers might treat him. And Lim had his own concerns, despite having been out to his previous employer. A lack of transgender professionals in the senior ranks at that company had caused Lim to worry about his long-term career prospects, which is why he was also considering other jobs.

"Being a young professional less than three years out of school, I was very nervous about coming out and possibly damaging my career opportunities in the long run," says the 26-year-old Queens, N.Y., native.

Lim became interested in working at Bank of America after hearing a presentation by one of the company's senior leaders at an LGBTQ event in 2019. Listening to a transmasculine employee openly discussing their supportive workplace inspired Lim.

He felt comfortable enough to come out during his second interview. "The very first question the interviewer asked upon reading my legal name was 'Vicky or Victoria—which do you go by?'" Lim recalls. "I took the leap and said, 'I actually prefer Victor.' And it was a nonissue. They just said, 'Oh, OK, we can do that.'"

Lim is now a vice president, senior business control specialist, and he has become active in the company's transgender employee resource group. He even spoke on a panel last fall at the Out & Equal Workplace Summit, an event he attended in 2019.

"It was such an honor to be that representation for others, especially the next generation," Lim says. "That's why I was willing to put myself out there despite all the fears my loved ones and I had."

CHANGE FOR THE BETTER

The transgender community has let out a collective sigh of relief, thanks to the change in administration and a recent Supreme Court decision. President Joe Biden has signed executive orders that expand federal nondiscrimination protections to LGBTQ individuals and ended his predecessor's ban on transgender people serving in the military. In March, Biden's pick for assistant secretary of health, Dr. Rachel Levine, made history when she became the first openly transgender presidential appointee to be confirmed by the Senate.

In the 2020 case *Bostock v. Clayton County*, the Supreme Court determined that LGBTQ individuals are protected from discrimination under Title VII of the Civil Rights Act of 1964. The ruling was significant because many employers weren't certain what constitutes discrimination and often failed to give such complaints proper scrutiny, explains attorney Jillian Weiss, whose New York City law firm specializes in representing transgender clients in discrimination cases.


"Now that we have *Bostock*, this has become like any workplace discrimination issue—you have two sides and you try to figure out what happens," she says. "But the idea that you're just not providing protection to these people is gone."

More positive developments could

be on the way. The Equality Act, which passed the House in February 2021, would codify the *Bostock* ruling by specifically including sexual orientation and gender identity in U.S. civil rights laws. As the Human Rights Campaign (HRC) notes, the Equality Act would update sections of the Civil Rights Act that cover federally funded programs and public accommodations to include prohibitions on sex discrimination.

The current environment contrasts sharply to the atmosphere before the change in administration, according to members of the LGBTQ community. Previous policies eliminated many protections for transgender individuals from discrimination in the workplace, housing, medical care and school sports. Murders of transgender and nonbinary people surged, hitting an all-time high of at least 44 killings in 2020, according to the HRC.

And on the state level, introductions of anti-transgender legislation have already hit a record high this year as state legislators have put forth more than 100 bills primarily targeting transgender Americans' participation in sports and access to medical care. One such bill, passed in Arkansas, bars medical providers from administering gender-affirming health care to transgender people younger than 18. Though the bill was vetoed



Victor Lim overcame his initial concerns about coming out during his recruitment at Bank of America and turned his experience into a positive one.

A 2020 Gallup poll of more than 15,000 people in the U.S. ages 18 and older found that

5.6% identify as LGBTQ, and **11.3%** of the LGBTQ respondents identify as transgender.

More members of Generation Z (15.9%) were found to identify as LGBTQ than members of older generations.

'There are laws in place to protect us,' Melissa Batson says. 'However, just because it's in the law doesn't mean that it's honored by employers.'



According to an October 2020 poll conducted in 10 battleground states by the Human Rights Campaign and Hart Research Group,

81% **92%**

of those surveyed believe transgender individuals should be able to live freely and openly, and

of voters polled believe transgender individuals should have equal access to medical care.

by Republican Gov. Asa Hutchinson, the state's General Assembly overrode the veto.

In his first address to a joint session of Congress, Biden pledged to sign the Equality Act into law. He also spoke directly to transgender Americans, saying that he "has [their] back." While many advocates praised the president for this comment, others found it too vague and urged Biden to directly address the barrage of anti-transgender

bills working their way through the states. HRC President Alphonso David told *The Daily Beast* in May that he has been having conversations with the Biden administration about potential actions with regard to the bills. David believes many of the bills violate federal law, and he thinks the president will eventually challenge them publicly. As of yet, the White House has not commented on its plans.

THE EMPLOYER PERSPECTIVE

Some businesses are pushing back against proposed anti-transgender leg-

islation. More than 55 major corporations have publicly opposed bills that would restrict the rights of transgender individuals, with business leaders reporting that they have had difficulty with recruitment, retention and tourism in states that have attempted to pass this type of legislation.

Moreover, some prominent companies have been vocal in their support of their transgender employees. In 2019, Maeve DuVally, managing director of corporate communications for multinational investment bank Goldman Sachs, made headlines when she came out as transgender. In multiple interviews and a blog post on the bank's website, she described how supportive her employer had been throughout the process. And in April 2021, multimedia news giant Reuters announced that Gina Chua had been appointed to the new role of executive editor. In its announcement, Reuters noted that Chua, formerly global managing editor of operations, transitioned in 2020.

Corporate America has a vested interest in protecting and embracing transgender individuals, diversity hiring experts say. Recent data suggests that members of Generation Z are more likely to identify as transgender than people belonging to older generations, and these younger individuals are demanding inclusive workplaces. With potentially a major influx of transgender and nonbinary individuals joining the workforce in the coming years, and bringing with them viewpoints unique to their communities and age group, it is incumbent on employers to identify and eliminate barriers to employment.

Bettina Deynes, SHRM-SCP, senior vice president and chief human resources officer at Carnival Cruise Line in Miami, has seen significant progress for LGBTQ workers in recent years. That support only expanded when companies stepped up their overall diversity, equity and inclusion efforts following last year's Black Lives Matter protests, she adds.

"There's been so much work on diversity and inclusion, and I feel like

it has evolved into equity and belonging," Deynes says. "As employers, we shouldn't be satisfied until people have a strong sense of belonging, where they can be themselves."

Some employers have been so supportive that transgender employees have come out at work before coming out in their personal circles, Deynes explains. Employees have told her before telling anyone else that they were considering gender-affirming surgery. "Some of them have shared this with me, and it has been such a great experience that they now feel like they can approach their family and friends," she says.

Initially, Lim's family didn't support his desire to transition when he started talking about it at age 17. By then, he had known he wanted to be seen as a man for about seven years.

"That's my earliest memory of outright asking friends and family if I looked/sounded like a boy, hoping the answer would be yes," he says.

Lim's family hails from Southeast Asia, where being LGBTQ is criminalized in multiple countries, and this reality led family members to fear for his safety. But he says a near-death experience at age 22 made him realize that transitioning wasn't optional. (He declines to elaborate on what happened.)

"It made me seriously reflect on my biggest regret, and it was not even trying to live as a man despite the dangers," he says. He started transitioning that same year but didn't reveal his identity at work until two years later.

HARSH CONDITIONS

Despite the progress that has been made, many workplaces still fail to fully support their transgender employees. According to a survey by the Society for Human Resource Management, the number of companies offering to pay for gender-reassignment surgery

is still low and fell from 10 percent in 2017 to 6 percent in 2019. The International Foundation of Employee Benefit Plans also reported a decrease in the number of companies offering this benefit: After surging to 29 percent from 12 percent between 2016 and 2018, coverage dipped to 21 percent in 2020.

Prejudice against transgender individuals has left them vulnerable. More than half (53 percent) of the transgender respondents to a 2020 study by the Center for American Progress revealed that discrimination moderately or severely affected their ability to be hired by employers. Nearly half (47 percent) revealed that discrimination had impacted their ability to retain employment. The survey found greater disparities for Black transgender individuals, who reported higher levels of discrimination by employers than white respondents.

"The unemployment rate among transgender people is exceedingly high," notes Melissa Batson, a production clerk for Costco who travels frequently to college campuses to speak about her experiences as a transgender woman in the workplace. "There are laws in place to protect us. However, just because it's in the law doesn't mean that it's honored by employers."

COMING OUT IN THE WORKPLACE

Batson knows the stress of coming out to an employer as transgender. When she did so in 2012, 90 percent of transgender workers reported being mistreated and discriminated against in the workplace, according to data from the Center for American Progress.

She started her journey by telling Costco's HR department. An HR representative let Batson decide how she wanted the coming-out process to unfold. "It was just the right approach to be open, let the trans person guide



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how everything goes forward,” Batson says.

Concerned over how her peers and customers might react if she began to come out publicly, Batson resolved to tell her warehouse manager first. The manager later asked the HR representative, “What do we do if he shows up to work in a dress?” The HR professional responded, “She will dress how she dresses.”

Though Batson wasn’t present for that exchange, it still was upsetting when she found out what the manager had said. Nevertheless, she ultimately felt more comfortable and began taking steps to express her gender identity, such as referring to herself as Melissa and wearing more feminine clothes. “My name started appearing on time sheets as Melissa, and so people saw that,” she says.

Batson’s story contrasts with that of

Weiss, the New York City attorney who was fired by her employer in 1998 after she told a co-worker she was considering transitioning. Weiss notes that while much has changed for transgender workers in the past 23 years, many of the same issues remain. Many employers are implementing right-minded policies, she says, but employees who disregard them often face few repercussions.

That’s where Weiss’ law firm can step in; Weiss herself has represented many transgender workers who have sued their employers. She views her oversized caseload not as a sign of more harassment occurring, but rather as an indication that the transgender community is increasingly willing to act on its own behalf. “People are more aware of their rights when these issues come up,” she explains. “They’re more willing to speak out and say, ‘I’m not going to endure this.’”

WHERE THE LEARNING HAPPENS

The business world is realizing it has to make a much bigger effort to create an atmosphere where transgender individuals can thrive.

Bank of America created its policies for transgender employees back in 2014. Scott Mealus, vice president of global HR and life event services at the company’s Charlotte, N.C., headquarters, says that over the last two years, the bank has given presentations to more than 100 other *Fortune* 500 companies on how to foster a culture of inclusivity.

The bank was one of the first companies to create a cohesive framework for welcoming and retaining transgender employees, and it works with other businesses to help them do the same. When creating the framework, the bank made sure to include transgender employees in that process.

For Mealus, the work his team is doing is incredibly personal. As a gay man who came out in the 1990s, he can relate to some of the struggles that the transgender and nonbinary communities encounter in the workplace. He urges companies to revisit their policies and ensure they are inclusive of all employees. “Think about your employees who need support,” he says. “Think about how you can have great, creative conversations around the topic. You can really change workplace culture and acceptance.”

But since there has been, on the whole, so little research done on transgender and nonbinary individuals, many companies find themselves ill-equipped to educate cisgender employees who have questions. That’s where nonprofits such as Trans Can Work (TCW) and PFLAG can help by providing training to employers.

TCW conducts group sessions that explore common office scenarios in which transgender workers might encounter microaggressions from cisgender staff members. A transgender facilitator leads small-group discussions about the various scenarios.

“That’s really where the learning

Key Terms

Cisgender. Denoting or relating to people whose sense of personal identity and gender corresponds with their birth sex.

Gender identity. One’s concept of self as male, female, a blend of both or neither. Gender identity can be the same as or different from one’s sex assigned at birth.

Gender expression. External manifestations of one’s gender identity. These are typically expressed through a person’s name, pronouns, clothing, behavior, voice and body characteristics.

Gender-nonconforming. A broad term referring to people who do not conform to the traditional expectations of gender or whose gender expression does not fit neatly into a category.

LGBTQ. The abbreviation for lesbian, gay, bisexual, transgender and queer.

Nonbinary. A term describing a person who does not identify exclusively as a man or a woman. Nonbinary individuals may identify as being both, somewhere in between or outside these categories.

Transgender. A term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply a sexual orientation. Like cisgender people, transgender individuals can be straight, gay, bisexual or any sexual orientation.

Transmasculine/Transfeminine. Terms to describe individuals whose gender identity differs from the sex they were assigned at birth but who do not want to be perceived as wholly male or female.

Transitioning/Gender transition. A process that some—but not all—transgender individuals undergo to match their gender identity more closely with their outward appearance. This may include making changes to clothing, names or pronouns, as well as addressing health care needs such as taking hormones or undergoing surgeries.

Sources: Human Rights Campaign; GLAAD; All About Gender; Planned Parenthood.



Jovan Wolf (left) and Drian Juarez worked together at Trans Can Work, a nonprofit that provides inclusion guidance and training for businesses.

happens,” says Drian Juarez, former vice president of programs for TCW in Agoura Hills, Calif., and now vice president of training and culture at Folx Health. “When people go and break out into their small group, that’s when they can be honest; they can feel comfortable.”

PFLAG, the largest LGBTQ family and ally organization in the U.S., has also found that the best way to get through to people who are struggling to accept and understand the trans-

gender community is to remove confrontation from the equation. Instead of trying to make people feel guilty for their feelings about the community or accusing them of being transphobic, the organization advises, answer their questions and help them see a different point of view.

“If we don’t alienate people, they’ll come with us, and that’s exactly what’s happened,” says Jean-Marie Navetta, director of learning and inclusion for PFLAG in Palm Springs, Calif.

REPRESENTATION AND VISIBILITY

For transgender students and young professionals, entering a workforce in which they remain heavily underrepresented is incredibly stressful. Fortunately, organizations like TCW help members of the community, many of whom are homeless or on the verge of homelessness, get ready for the workplace. The organization has resources for job seekers, including resume workshops, career fairs and job boards. TCW

TransTech Social Enterprises turned out to be a perfect networking solution for Safi Mojidi.



specifically targets companies that it knows have made inclusion integral to their policies. And companies that participate in TCW's diversity training may ultimately collaborate with the organization on the hiring process.

"We just did a training with Vimeo," says Jovan Wolf, workforce development manager for TCW. "Now we're in touch with Vimeo's recruitment department and we're gathering candidates to help fill some positions. So now it's a one-on-one, direct link to jobs with a company that has gone through diversity and inclusion training."

Even later in their careers, transgender individuals may need to seek support outside their companies. Safi Mojidi, a senior security technical program manager at messaging app company Slack, wanted to network with people who shared some of his experiences. That wasn't easy as a transgender Black man in a field dominated by cisgender white men.

But last year he discovered TransTech Social Enterprises, an incubator of transgender talent founded by businesswoman, advocate and "Pose" actress Angelica Ross. "It was an avenue where I could talk to other people who were similar to me: LGBTQ folks and people of color," he says. "It was an opportunity to talk through some of the goals we set for ourselves internally and a place where folks had access to resources and people that you typically wouldn't have, like folks who have served on boards of Fortune 500 companies."

Mojidi, who is based in Alexandria, Va., notes that clients of TransTech bounce ideas off each other and learn about potential setbacks and challenges they could encounter. "It's just a really good opportunity to have a group of like-minded folks to meet with on a weekly basis," he says. "We would practice our elevator pitches and talk about areas where we had weaknesses. And then we'd pivot into folks giving trainings on any number of things."

Representation and visibility matter. Workers need peers they can relate to and compatible mentors they can learn from. Without these rela-

Transgender Health Benefits

People can access a wide range of medical procedures and health care services to better reflect their gender identity, notes the British Columbia Center for Disease Control. By providing relief from gender dysphoria—the feeling of distress that can occur when a person's gender identity differs from the sex they were assigned at birth—these procedures can be crucial to the mental health of many transgender and nonbinary individuals.

There are five critical categories for fully covering transition-related health care, according to the Human Rights Campaign (HRC):

- Mental health.
- Pharmacy benefits for hormone therapy.
- Medical visits and lab procedures related to hormone therapy.
- Gender-affirming surgical procedures.
- Long-term leave for surgical procedures.

In 2009, the HRC mandated that employers wanting to earn a score of 100 percent on its Corporate Equality Index (CEI) must fully affirm coverage for medically necessary transition-related care and other conditions. As of 2020, 91 percent of CEI-rated businesses (1,040 out of 1,142) now offer at least one plan with transgender-specific health options. In 2002, no companies offered such a plan, while in 2009 only 8 percent of companies included such coverage.

Passage of the Affordable Care Act (ACA) was an important milestone for transgender health coverage, notes health policy information provider the Kaiser Family Foundation. Before the law was enacted, insurers could deny coverage for transition-related services or charge higher rates due to a patient's gender identity. Under the ACA, insurers are barred from discriminating against patients based on sexual orientation or gender identity when it comes to coverage for certain specific and essential health benefits. And federally funded health programs—including Medicare, Medicaid and any insurance providers that receive federal funds—are prohibited from discriminating based on sex and gender identity.

The Supreme Court's recent ruling in *Bostock v. Clayton County* also had implications for health care. While the case pertained to employment, President Joe Biden's administration applied the ruling to health care discrimination laws.

Still, 30 states allow plans that use broad exclusions to deny coverage for transgender-related health services. Nonprofit media organization NPR notes that the costs insurers incur for covering these services are relatively low. But untreated gender dysphoria has often resulted in costly medical outcomes, such as HIV infection, drug abuse, depression and suicidality. —A.D.

tionships, it's difficult to thrive in any organization. And when employees aren't performing at their best levels, the entire company can suffer.

For transgender and nonbinary individuals, it can be a long, difficult struggle to come out in the workplace—if they choose to come out at all. Research suggests that members of younger generations are more likely to

identify this way and more willing to disclose that they do. Therefore, anything that can be done to make them feel welcome and accepted will only help an organization in the long run. ■

Andrew Deichler is an online writer/editor for SHRM specializing in coverage of students and emerging professionals.