

# HR Brief

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**Brown & Brown Benefit Advisors**

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## Be Informed on Transgender Accommodation

Transgender issues have been receiving more attention as of late--specifically, on how employers can successfully accommodate an employee (or prospective employee) who is transitioning or has transitioned. Dealing with transgender workplace issues may be uncharted territory for many employers, so it's important for HR professionals to be informed and prepared to handle transgender workplace issues appropriately.

The first step in accommodating a transgender employee is to create and maintain a work environment that is inclusive of everyone and that does not tolerate harassment or discrimination of any kind. Employees must understand that, whatever their personal beliefs, harassment and hostility towards others will not be tolerated in the workplace.

One of the most common issues that arises when an employee decides to transition is restroom use in the workplace. However, the solution is fairly straightforward. A transgender employee, whether fully transitioned or in the process of transitioning, should be permitted to use the restroom of the gender he or she identifies with. You should not require a transgender employee to use a single-occupancy restroom or the restroom of the employee's gender at birth. This could open your organization up to sex discrimination claims and costly litigation. The Occupational Safety & Health Administration (OSHA) has put together a [Guide to Restroom Access for Transgender Workers](#), outlining best practices for employers.

When an individual transitions, he or she may decide to change his or her name. You should be sure to use the name and pronoun that the transgender employee prefers. In addition, you should watch for other employees' deliberate use of the wrong name and/or pronoun as an attempt to demoralize the transgender employee.

Of course, there are a number of other issues that may arise when an employee is transitioning. It's important that the individual has a specified point of contact to go to where he or she can talk about his or her concerns. Like most employee relations matters, the best progress and outcomes happen when employers take the time to sit down, listen and respect employees' concerns. By providing an accommodating environment, your employees will be more productive and you can avoid costly litigation.

## DID YOU KNOW?

Giving employees the option to telecommute and work flexible hours may garner loyalty from your current employees and help you attract and retain new ones.

According to TechnologyAdvice, a business software research company, 61 percent of people say they would be more productive if they worked from home. In addition, 82 percent of people say they would be more loyal to their employers if they could work from home.

Employees today are more focused on maintaining a work-life balance, so employers that can provide flexible work options are in high demand.

## Uber Case Highlights Employee Classification Enforcement

Uber, the transportation network company, will pay \$4,152.20 in reimbursable business expenses and interest to one of its drivers due to its misclassification of the driver as an independent contractor after the California Labor Commission ruled the driver was, in fact, an employee. Uber has since appealed the decision.

The case highlights the recent focus and enforcement of proper employee classification. Whether you employ drivers like Uber, or have a number of outside salespeople you consider to be independent contractors, now is the time to evaluate those positions in light of recent regulatory activity.

Large class action lawsuits against Uber and other companies are getting a fair amount of media attention. This could cause some independent contractors to want to take a look at how they are classified with your company. You should stay abreast of the developments in this area and continually evaluate whether your worker classifications are correct.