



Transgender and transitioning employees protected from discrimination in Ohio

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Last week, the Sixth Circuit (which covers Kentucky, Michigan, Ohio and Tennessee) held that Title VII provides transgender and transitioning employees with protection from employment-related discrimination.

In [that case](#), an employee worked as a funeral director when she decided to transition from male to female. As part of the transition, she began representing herself, and dressing as, a woman at work. Soon after learning of this decision, the funeral home terminated her, because she was “no longer going to represent [herself] as a man” and because she “wanted to dress as a woman.”

While the court has not created a new group of protected employees (that could only be done by congress), it did hold that discrimination on the basis of transgender and transitioning status is in fact discrimination on the basis of sex, which is already prohibited under Title VII.

Lastly, the court rejected the funeral home’s defense based on the Religious Freedom Restoration Act (RFRA), stating that tolerating a transgender employee is “not tantamount to supporting” the decision to transition and present as a different gender.

While this issue will likely be addressed by the Supreme Court in the future, for Ohio employers and others, transgender employees are protected from discrimination under Title VII. Employers should:

- Review and, if necessary, revise their anti-discrimination policies accordingly.

- Notify employees that discrimination will not be tolerated on the basis of transgender or transitioning status in the form of training or otherwise.

Bricker & Eckler has extensive experience assisting employers develop and maintain effective employment policies. For assistance, please contact the authors or any member of our employment law team.

Authors
