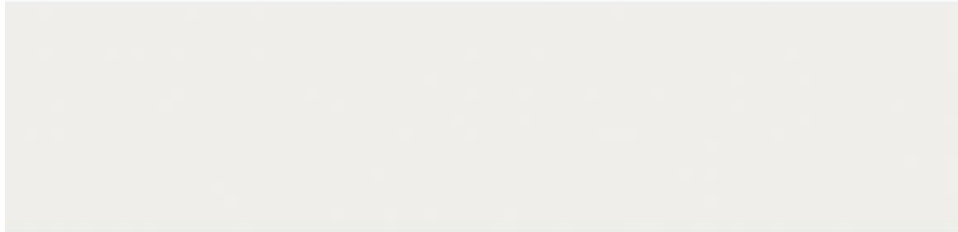





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Title VII

Sexual Orientation and Gender Identity are Covered by Title VII




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Title VII: Sexual Orientation & Gender Identity

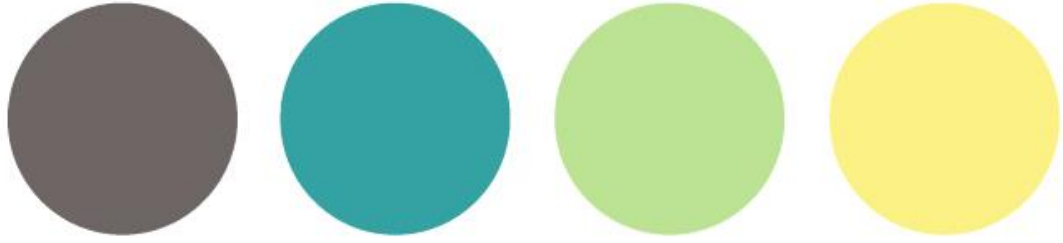
Q. How would you respond?

An employee you hired last year, Wyatt, begins presenting as female, wearing dresses to work and asking that you and her coworkers refer to her as “Wyndi.” Wyndi requests to have her signature line changed. Although there is no issue with dress code or other policies, several of your staff complain to you about their discomfort with Wyndi’s transgender status. How would you handle Wyndi’s requests and those of her coworkers?



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Title VII: Sexual Orientation & Gender Identity

Q. What would you do?

Your supervisor tells you to keep a close eye on Wyndi and to let her know if Wyndi does anything that would justify termination. Even though Wyndi has excellent performance, it is clear that your supervisor is looking for a reason to discharge her, regardless.



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The Case

In *Bostock v. Clayton County, Georgia*, the Supreme Court held that Title VII protections based on sex extend to sexual orientation and gender identity. The Court did not rely on arguments related to sex stereotyping or discrimination by association, but instead emphasized the plain text of the Civil Rights Act's Title VII language about sex. The Court reasoned that discrimination based on sexual orientation or gender identity automatically involves discrimination based on sex, because they are inextricably connected. In other words, there cannot be discrimination on the basis of sexual orientation or gender identity without discrimination based on sex.

Bostock v. Clayton County, Georgia, No. 17-1618 (S. Ct. June 15, 2020).



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The Bottom Line

Discrimination against someone because of their sexual orientation or gender identity is illegal under Title VII of the Civil Rights Act of 1964, as amended. Sexual orientation, gender identity, and sex are all connected, and Title VII expressly prohibits discrimination based on sex. The Court clearly linked sex with sexual orientation and gender identity, moving away from earlier arguments related to association or sex-based stereotypes.



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