

More Employee Handbooks Replace 'He' and 'She' with 'They'

By Allen Smith, J.D.

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Increasingly, companies are removing "he" and "she" from their employee handbooks and replacing them with gender-neutral pronouns, such as "they," Merriam-Webster's word of 2019. The companies are doing this to make nonbinary individuals who do not identify as male or female feel included. The companies are also scrapping such gender-specific pronouns as "his," "hers," "him" and "her" in favor of "their" and "them."

Many Millennials identify as nonbinary, noted Denise Visconti, an attorney with Littler in San Diego. A nonbinary individual is anyone who does not identify in terms of male or female and could include someone who is transgender, gender fluid, between gender or third gender, Visconti said. And don't presume sexual orientation based on someone's identifying as nonbinary, she added, because gender identity and sexual orientation are distinct concepts.

Littler has eliminated gender-based pronouns from its HR documents, including handbooks, and given its employees the option of choosing a nonbinary identifier—neither male nor female—in the firm's internal HR system.

"You want to make sure everyone feels as though they are included. Eradicating gender-specific pronouns is a step in that direction," Visconti said.

In some parts of the country, such as California and New York City, employers must refer to workers by the pronoun they use to refer to themselves. To refer to individuals by some other pronoun could be considered harassment, Visconti cautioned.

Word of the Year

Merriam-Webster's word of the year is a statistical assessment of words that are searched online at Merriam-Webster.com, said Peter Sokolowski, editor-at-large with Merriam-Webster.com in Springfield, Mass. The company reviews "the most-looked-up words on the site and makes a year-over-year comparison in order to find which word was consulted more frequently in the current year than in the previous years."

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Singular "they" has been standard in the English language for centuries, going back at least to the 14th century, Sokolowski said.

"Sentences like 'No one has to go if they don't want to' or 'Everybody likes, pizza, don't they?'" are common and normal. It was only in the 18th century that some grammarians proposed that 'he' should be used as the third-person singular pronoun ... when the gender of the antecedent is unknown. Using 'he' for this purpose can result in gratuitous sexism, and using 'he or she' can become cumbersome."

On the other hand, nonbinary "they" is more recent, dated to 2005. "Its use is increasing, which is why it has been added as a definition of 'they' in our dictionary," Sokolowski said.

"The use of the plural verb referring to an individual will feel strange for many, and this has an interesting echo of the history of another English pronoun, 'you,' which displaced 'thou' and 'thow' as the second-person singular pronoun around 400 years ago," Sokolowski noted.

"No one today considers the plural verb form 'you are' to be ungrammatical when referring to an individual today because the habits of language have changed over time. It's possible that this same familiarity will make nonbinary 'they' similarly standard—but it will take time."

Plural 'Employees'

Employers may want to use plural pronouns, such as "they" and "their," and speak more of plural "employees" than the singular "employee," said Cheryl Behymer, an attorney with Fisher Phillips in Columbia, S.C.

A company "may also want to define 'employee' early in its handbook and say that it includes employees who identify as male, female or nonbinary," Behymer said. "Then the company could use 'employee' in the handbook, knowing the definition has already been established. Of course, this may sound more stilted and artificial than using 'him' or 'her.' "

Nonetheless, Behymer said that even if the plural pronouns "they," "their" and "them" are not grammatically correct, the employer might want to use them and explain why it is doing so in the handbook's introduction.

"Stating something like 'We respect each employee's right to individually identify gender as male, female or nonbinary, and we have decided to make our handbook as inclusive as possible to our entire workforce by using the plural pronouns "they," "their" and "them" instead of pronouns associated with gender choices' may ameliorate any confusion on this point," Behymer said.

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"Other words are being used as substitutes for 'he' and 'she' but not as widely as 'they' and would be unwieldy in an employee handbook," said Helen Friedman, Ph.D., a clinical psychologist in St. Louis who specializes in gender identity.

Margaret Signorella, Ph.D., a professor of psychology and women's, gender and sexuality studies at Pennsylvania State University Brandywine in Media, Pa., said, "It is relatively easy to rewrite passages in employee handbooks in the plural."

Feedback

Why Make the Switch?

Friedman said companies should eliminate gender-based pronouns from their employee handbooks for a variety of reasons.

"Using 'he/she' is clunky writing, even for those employees who do identify as one binary gender," Friedman said. "Choosing 'he' versus 'she' for a specific policy smacks of sexism. More important, gender-based pronouns exclude individuals who identify as nonbinary and can make them feel disrespected."

Friedman concluded, "It is a huge step forward to recognize that not all people fit neatly into a male or female category."

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