

<p style="text-align: center;">NORTH <b>Dakota</b> Be Legendary.™</p> <p style="text-align: center;">Corrections and Rehabilitation</p> <p style="text-align: center;"><b>POLICY &amp; PROCEDURES</b></p>		<p><b>POLICY NUMBER AND SECURITY:</b> 1C-34 – This policy has no confidential or exempt information.</p>
		<p><b>RELATED STANDARDS (such as ACA/ACI/ACRS/PbS/PREA):</b></p>
<p><b>RELATED REFERENCES:</b></p> <p>Appendices: None</p> <p>Manuals: None</p> <p>Related DOCR Training: Professional Rapport and Risk Management</p>		
<p><b>DIVISION:</b> Central Office</p>	<p><b>FACILITY/WORK GROUP:</b> Human Resources</p>	<p><b>TOPIC:</b> Transgender Employee</p>
<p>Effective Date: September 6, 2019 Revised: February 11, 2022 Revised: May 24, 2022</p>		

**Summary of Revision(s)**

<p><i>Reviewed by the Administrative Policies Committee.</i></p> <ol style="list-style-type: none"> <li>1. Revised the definition of Gender Identity.</li> </ol>
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1. **AUTHORITY:** Authority for this policy with procedures is found in chapter 54-23.3 of the North Dakota Century Code.
2. **APPLICABILITY:** This policy with procedures applies to all employees of the Department of Corrections and Rehabilitation (“Department”).
3. **DEFINITIONS:**
  - A. Gender Identity: One’s innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One’s gender identity can be the same or different from their sex assigned at birth.
  - B. Gender Expression: An individual’s external and social characteristics and behaviors (such as appearance, dress, mannerisms, speech, and social interactions) that may be perceived as masculine or feminine.
  - C. Gender Nonconforming: Gender characteristics and behaviors that do not conform to those typically associated with a person’s assigned gender at birth.
  - D. Gender Transition: A transition from being known as one gender to another in the workplace.
  - E. Transgender: A person whose gender identity (internal sense of feeling male or female) is different from the person’s assigned sex at birth.
4. **POLICY:** The Department is committed to a respectful, safe, and productive workplace for all employees, including transgender and gender nonconforming employees. The needs of each transgender employee must be assessed on a case-by-case basis. The goal is to ensure the safety and dignity of transgender or gender non-conforming employees; maximize the employee’s workplace integration and productivity; and minimize stigmatization of the employee.

The Department shall treat an employee’s gender transition or transgender identity with as much sensitivity and confidentiality as with any other employee who is undergoing a significant life experience. The Department shall allow a transgender employee to decide when, with whom, and how much to share regarding the employee’s private information, unless safe and secure correctional operations are at risk. Any employee undergoing a gender transition or who is transgender can expect the Department’s management and co-workers to treat the employee courteously and fairly and without any form of harassment. Employees who are undergoing a gender transition or who are transgender are strongly encouraged to contact Department human resources or their supervisor for assistance in advance of the transition.

5. **PROCEDURES:**
  - A. Official Records: The Department shall comply with ND Office of Management and Budget (OMB) central payroll guidelines regarding official payroll records. Employees undergoing a gender transition may contact DOCR payroll for requirements regarding changing their name or pronoun. Official documentation may be required to change an employee’s name in PeopleSoft or ND.gov (username, email address, etc.).
  - B. Workplace Name and Pronouns: Department employees shall address an employee by the name and pronoun that corresponds to the employee’s gender identity upon the employee’s request and will not require a court-

ordered name or gender change to do so. Supervisors and co-workers must use the name and pronoun requested by the employee, regardless of the supervisors' and co-workers' perception of the employee's gender expression. Supervisors shall monitor the workplace regularly to ensure co-workers are using the employee's desired name and pronoun.

- C. **Dress Codes:** When transgender employees begin their transition, they may begin wearing clothing and hair consistent with their gender identity. Transgender and gender nonconforming employees shall comply with Department or facility/division specific dress codes and grooming standards in a manner consistent with their gender identity or gender expression.
- D. **Restroom or Locker Room Access:** Employees may have access to restrooms and locker rooms corresponding to their gender identity. Transitioning employees are not required to have undergone, or provide proof of, any particular medical procedure (including gender confirmation surgery) in order to have access to facilities designated for use by a particular gender. The decision about which restroom to use is left to the transgender or transitioning employee to determine the most appropriate and comfortable option. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, may be provided with a reasonable alternative changing area, such as the use of a private room, if available, or a slightly modified schedule.
- E. **Gender-specific duties:** A Division Director or designee shall work with employees who engage in gender-specific duties, including unclothed searches, to determine an approach to employees' gender-specific duties on a case-by-case basis.
- F. **Transition Plan Requirements**
  - 1. Department employees who intend to undergo gender transition within the workplace are encouraged to provide notice to human resources or their immediate supervisor sixty (60) days prior to the planned transition.
  - 2. The division HR representative and the immediate supervisor or designee, as assigned by the division director or warden, shall work with the employee to develop a transition plan that includes, at a minimum:
    - a. The date when the employee will change the employee's gender expression, name, and pronouns;
    - b. The name and pronoun the employee prefers to use;
    - c. Restroom and locker room expectations;
    - d. Gender-specific duty expectations, as determined in collaboration with the Division Director or designee;
    - e. A communication plan that addresses how, and in what format or manner, the transitioning employee's co-workers will be made aware of the employee's transition. The plan must include:

- 1.) Approach to sharing the name and pronoun with co-workers;
- 2.) Strategy to dispel rumors, promote open and respectful communication, and clarify misinformation; and
- 3.) Expectations for respectful workplace conduct.

The plan may not include sensitive issues that the transitioning employee is uncomfortable addressing or issues that do not impact the workplace (e.g., whether the employee will undergo gender confirmation surgery). These issues do not need to be volunteered to the person assisting with the plan and, if volunteered, must be considered confidential information and not re-disclosed.

- f. Training, if any, to provide to co-workers and supervisors;
- g. Updates that may be made to the transitioning employee's records and email address, when these updates may be made, and identify any required documentation, as determined in collaboration with payroll and IT;
- h. Dates of any leave, if needed, for pre-scheduled medical procedures; and
- i. A process for monitoring and ensuring a respectful workplace, which must include regular scheduled check-ins with the transgender or transitioning employee.

G. Harassment

1. Any employee experiencing harassment may follow the procedures in Department policy 1C-08, Sexual Harassment, Hostile Work Environment, Work Place Threats and Violence, to address the harassment.
2. Harassment is not tolerated. Disciplinary action, up to and including termination from employment, may be taken against any employee who is found to have engaged in such harassment. An employee found to have made a false accusation may be subject to disciplinary action, up to and including termination from employment.

6. **SIGNATURE:** This policy with procedures and applicable manuals becomes effective when signed by the Director of the Department of Corrections and Rehabilitation.

***This copy has been approved by the Director with the original signature on file.***