



Shared Operational Policy

Policy title:	Gender Identity and Expression Policy for Employees		
Policy number:	DHS OHA 010-021		
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Approved:	Kris Kautz, Deputy Director, OHA Don Erickson, Chief Administrative Officer, DHS		

Purpose

The Oregon Department of Human Services (DHS) and the Oregon Health Authority (OHA) are committed to ensuring a welcoming, respectful and supportive work environment for all DHS|OHA employees. This includes supporting practices that permit individuals to live and work in a manner consistent with their gender identity or expression. The goal is to ensure a safe, healthy, and respectful work environment for individuals who identify as transgender, gender expansive, gender non-binary and Two Spirit. Ensuring a respectful work environment benefits the agencies by increasing productivity and quality of services to all Oregonians.

Description

The policy lays a foundation for ensuring the full inclusion and participation of transgender, non-binary and gender expansive individuals in agency activities by providing equitable access and outcomes to DHS|OHA employees.

Applicability

This policy applies to all DHS|OHA employees, volunteers, trainees, and interns.

As keepers of the public trust, all agency employees have a responsibility to comply with state and agency policies, administrative rule, and state and federal law. The agency takes this responsibility seriously and failure to fulfill this responsibility is not treated lightly. Employees who fail to comply with state or agency policy, administrative rule, or state and federal law may face progressive discipline, up to and including dismissal from state service.

Definitions

The definitions provided here are not intended to label individuals but rather to assist in understanding this policy. Individuals may or may not use these terms to describe themselves. It is important to note that everyone has a gender identity and gender expression.

1. Gender identity: A person’s internal sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth. Everyone has a gender identity.
2. Transgender: An umbrella term that can be used to describe people whose gender identity or gender expression is different from their sex assigned at birth.

- a. Transgender man: A person whose sex assigned at birth was female but who identifies as male is a transgender man (also known as female-to-male transgender person, or FTM).
 - b. Transgender woman: A person whose sex assigned at birth was male but who identifies as female is a transgender woman (also known as male-to-female transgender person, or MTF).
 - c. Some people described by this definition don't consider themselves transgender – they may use other words or may identify simply as a man or woman. A person does not need to identify as transgender for nondiscrimination policies to apply to them.
3. Gender expression: The way that an individual's gender identity is expressed, including but not limited to, dress, appearance, manner, or speech, whether or not that expression is different from what is traditionally associated with the individual's assigned sex at birth.
 4. Gender non-binary: A gender identity that is neither male nor female.
 5. Sex assigned at birth: the assignment of individuals to a sex category by medical practitioners or parents at birth and typically based on the appearance of external genitalia. Assigned sex at birth is then recorded on the birth certificate as male, female, undetermined (used in cases where the sex cannot be determined due to a medical condition), or X for individuals who are not exclusively male or female. Parents can make the decision to have their child's sex be X on the original birth record.
 6. Transition or gender affirmation: The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many ways to transition. For some people, it is a complex process that takes place over a long period of time, while for others it is a one- or two-step process that happens more quickly. Transition may include some, none, any or all of the following in public or in private: "coming out" by telling family, friends, and coworkers; changing the name or sex on legal documents; and accessing medical treatment such as hormones and surgery.
 7. Two Spirit¹: A direct translation of the Ojibwe term, Niizh manidoowag, "Two-Spirited" or "Two-Spirit" is usually used to indicate a person whose body simultaneously houses a masculine spirit and a feminine spirit. It may also describe people who fulfill a mixture of traditional gender roles, although the exact definition may vary by tribe and region. The term can also be used more abstractly, to indicate the presence of two contrasting human spirits (such as Warrior and Clan Mother). The term Two-Spirit is often used to reconnect with tribal traditions related to sexuality and gender identity; to transcend the Eurocentric binary categorizations of homosexuals vs. heterosexuals or male vs. female; to signal the fluidity and non-linearity of identity processes; and heterosexism in Native Communities and racism in LGBTQ communities.

Policy

1. It is the policy of DHS|OHA that individuals be treated in a manner consistent with their self-determined gender identity or gender expression, regardless of the sex assigned at birth, in all aspects of employment, its privileges, and benefits.
2. DHS|OHA shall provide a work environment free from unlawful discrimination or harassment based on, or because of, an employee's protected class status which includes gender identity or expression.
3. For everyday interactions and usage, all DHS|OHA representatives shall use the name and pronouns appropriate to the gender identity of an individual, as expressed by that person. While occasional mistakes inevitably happen, intentional or persistent refusal to respect an employee's gender identity may be considered harassment in violation of State of Oregon policy.

¹Walking in Two Worlds: Supporting the Two Spirit and Native LGBTQ Community
<https://tribalinformationexchange.org/files/resources/twospiritbrochure.pdf>

4. In accordance with ORS 659A.403, agency staff are prohibited from unlawful discrimination or harassment in the agencies' delivery of services, programs, facilities, privileges, or any other type of public accommodation for protected classes, including gender identity and expression.
5. DHS|OHA shall treat an individual's gender identity and history as confidential medical information and shall not disclose information that may reveal a person's transgender status or gender non-conforming presentation to others without explicit written permission, unless the information disclosure is necessary to conduct official agency business.
6. Employees have the right to discuss their own gender identity or expression openly, or to keep that information private. The employee gets to decide when, with whom, and how much to share their private information.
7. The use of an employee's preferred name and gender pronouns at that individual's direction and in accordance with their preference, shall not be considered disclosure or discussion of gender identity or expression.
8. DHS|OHA information systems shall be designed to allow for collection of preferred name and gender identity demographic data and its use for equal employment opportunity, affirmative action and workforce equity and diversity programs where possible.
9. Employees who are in the process of transitioning, whether the transition is social, legal, medical, or any combination, shall receive the full support of DHS|OHA, including the assistance of the employee's supervisor, HR, and an OEMS or OEI representative, to develop an individualized plan for assisting the employee in a successful workplace transition.
10. Employees receiving medical treatment as part of gender transition may use otherwise-qualifying sick leave under the applicable collective bargaining agreement or HR policies.
11. Eligible employees who qualify under the Family Medical Leave Act (FMLA) or the Oregon Family Leave Act (OFLA) may be entitled to take medical leave for the transition-related needs of themselves or their families.
12. DHS|OHA shall prioritize an employee's request for name or record changes to accurately reflect an employee's gender identity.
 - a. Proof of a legal gender or name change shall not be required, unless a specific record change requires such documentation by law or state policy.
 - b. Employee records to be updated include, but are not limited to, email, electronic directories, name badges, websites, and official photographs.
 - c. Each agency shall develop an easy-to-use process for updating records.
13. DHS|OHA shall make a good faith effort to provide gender-inclusive restroom solutions based on current national best practices in all agency operated facilities.
14. All DHS|OHA employees, including transgender employees, shall have access to restrooms, toilets and other facilities that correspond to their gender identity without harassment or question.
15. DHS|OHA shall not require the use of segregated facilities for transgender or gender non-binary individuals
 - a. The employee shall determine the most appropriate and safest option for themselves.
 - b. Employees shall not be asked for medical or legal documentation.
 - c. Where possible, any individual with a need or desire for increased privacy, regardless of the underlying reason, shall be given the opportunity to use facilities that allow the individual to keep gender identity status confidential such as alternate changing areas; a private changing room; or use of the locker room, showers or other facilities that corresponds to their gender identity, before or after other employees.
 - d. Employees that believe access to DHS|OHA restrooms, toilets, and other facilities are not accessible according to the standards set forth in this policy, may contact their direct supervisor, Human Resources, DHS Office of Equity and Multicultural Services (OEMS), or OHA Office of Equity and Inclusion (OEI).

16. DHS|OHA shall provide ongoing employee training on the rights and responsibilities of employees under this policy and related laws.
17. Within one year, each agency shall convene a workgroup led by the OHA Office of Equity and Inclusion or the DHS Office of Equity and Multicultural Services, as appropriate, and including representatives from the agencies Human Resources, Facilities, and Communications teams; each shall create a five-year implementation plan for inclusive structural and cultural changes to support this policy.

References

[DAS 50.010.01](#)

[Workplace Transition Plan \(Model Transgender Employment Policy\)](#)

[Oregon Equality Act of 2007](#)

[Unlawful Discrimination in Employment and Places of Public Accommodation](#)

[Bureau of Labor and Industries Discrimination Oregon Administrative Rules](#)

Forms referenced

[OHA Employee Discrimination/Harassment Complaint Form](#)

[DHS Employee Harassment and Discrimination Complaint Form](#)

Contact

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Policy history

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