

Michigan Department of Attorney General Transgender Policy

Policies and Procedures: Transgender Policy

Effective Date: 06/08/21

Supersedes: New

A. Purpose. This policy sets forth guidelines to address the needs of transgender, intersex and gender non-conforming employees of the Department and clarifies how the law should be implemented in situations where questions may arise about how to protect the legal rights or safety of all employees. In addition, the guidelines in this policy are to be followed by employees when performing their work duties and interacting with transgender, intersex and gender non-conforming individuals from outside of the Department. This policy does not anticipate every situation that might occur with respect to transgender, intersex, or gender non-conforming employees and other individuals, and therefore each situation must be assessed on a case-by-case basis. In all cases, the goal is to maximize the safety and comfort of, and respect given to, transgender, intersex, and gender non-conforming employees and other individuals while minimizing stigmatization and eliminating discrimination and harassment of the employee or other individual.

B. 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.

1. **Gender Identity.** An individual's internal sense of being male or female, or something not defined by traditional definitions of male or female. The way an individual expresses his or her gender identity is frequently called "gender expression," and may or may not conform to social stereotypes associated with a particular gender.
2. **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.
3. **Transgender.** Individuals with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth but who identifies as female is a transgender woman. Likewise, a person assigned the female sex at birth but who identifies as male is a transgender man. Some individuals who would fit this definition of transgender do not identify themselves as such, and

identify simply as men and women, consistent with their gender identity.

4. **Gender Non-Conforming**. Individuals who display gender traits which are not generally associated with their birth-assigned sex. Gender non-conforming individuals may or may not identify as male, female, or transgender.
5. **Transition**. The process of changing one's gender from the sex assigned at birth to one's gender identity. These individuals often seek some form of medical treatment such as counseling, hormone therapy, electrolysis, and possible gender confirmation surgery. Some individuals, however, will not pursue some (or any) forms of medical treatment.
6. **Sexual Orientation**. A person's physical and emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be straight, gay, lesbian, or bisexual, just like non-transgender people.
7. **Intersex**. Intersex people are individuals born with any of several variations in sex characteristics including chromosomes, gonads, sex hormones or genitals that do not fit the typical definitions for male or female bodies.

C. **Guidelines**.

1. **Responsibilities**. The Department is responsible for issuing, modifying and approving policies pertaining to employee interactions with transgender, intersex, and gender non-conforming individuals.
 - a. Supervisors will ensure that this policy is adhered to by all employees. They will set the standard for courtesy and provide a model for their subordinates to follow.
 - b. Employees will conduct themselves professionally and courteously when interacting with fellow employees, as well as members of the public, client agencies, opposing counsel and their clients, pro per litigants, etc., and shall follow this policy when interacting with all transgender, intersex, and gender non-conforming individuals while performing their work duties.

2. **Privacy.** Transgender, intersex, and gender non-conforming employees and other individuals have the right to discuss their gender identity or expression openly, or to keep that information private. The employee or other individual decides when, with whom, and how much to share their private information. Department staff should not disclose to others information that may reveal an employee's or other individual's transgender or intersex status or gender non-conforming presentation. This confidential information may only be shared with the employee's or other individual's consent and with co-workers who truly need to know to perform their jobs.
3. **Official Records.** The Department will change an employee's official record to reflect a change in gender upon presentation of a court order or current government issued identification card issued in the employee's new name and/or gender.
4. **Names/Pronouns.** An employee or other individual has the right to be addressed by the name and pronoun that correspond to their gender identity, upon request. The intentional or persistent refusal to respect an employee's or other individual's gender identity (for example, intentionally referring to an employee by a name or pronoun that does not correspond to the employee's gender identity) can constitute harassment. If you are unsure what name or pronoun an employee or other individual might prefer, you can politely ask them how they would like to be addressed. Supervisors and managers shall use the name and pronoun requested by an employee, regardless of the supervisor's perception of the employee's gender expression. Supervisors and managers should also monitor the workplace regularly to make sure co-workers are using appropriate names and pronouns. The Department is permitted to use an employee's gender or legal name as indicated in government issued identification if it is necessary to meet a legally mandated obligation such as for tax purposes or on official reports the employee is required to sign as a part of their job duties, unless an employee submits documentation demonstrating an official name change. If an official document requires the use of an employee's or other individual's legal name, the employee or other individual must use his or her legal name but should be permitted, if desired, to indicate that they are also known by another name. (i.e., John Doe aka Jane Doe).
5. **Restroom Accessibility.** Employees and other individuals shall have access to Department restrooms corresponding to their gender identity, regardless of their sex assigned at birth. Any employee or other individual who has a need or desire for increased privacy, regardless of the underlying reason, will be provided access to a single- stall or

private restroom, when available. However, no employee or other individual shall be required to use such a restroom. The decision about which restroom to use should be left to the employee or other individual to determine the most appropriate and comfortable option for them.

6. **Locker Room Accessibility.** If applicable, all employees have the right to use the locker room that corresponds to their gender identity. Transitioning employees are not required to provide proof or have undergone any medical procedure (including gender confirmation surgery) in order to have access to facilities designated for use by a particular gender. 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. An employee's schedule may also be slightly adjusted so that they may use the locker room that corresponds to their gender identity before or after other employees. Any alternative arrangement will be provided in a way that allows the employee to keep their status confidential, according to their needs.
7. **Dress Code.** The Department does not have dress codes that restrict employees' clothing or appearance based on the basis of gender. When a transgender employee begins their transition, they may begin wearing clothing and hair consistent with their gender identity. Transgender, intersex, and gender non-conforming employees must still comply with Department dress codes and grooming standards in a manner consistent with their gender identity or gender expression.
8. **Work Assignments/Job Duties.** Work assignments and/or job duties should not be differentiated by gender.
9. **Transitioning on the Job.** Transgender employees who transition on the job can expect the support of all Departmental employees. All supervisors shall work with each transitioning employee individually to ensure a successful workplace transition. An employee's transition should be treated with as much sensitivity and confidentiality as any other employee who is going through a significant life experience. Any employee of the Department should be free from any discrimination or harassment during the gender confirmation process. Employees receiving treatment as part of their transition may use sick leave under applicable employer regulations.
10. **Discrimination/Harassment.** As set out in the Department's "Discrimination and Discriminatory Harassment Policy," it is unlawful

and violates Departmental policy to discriminate in any way against an employee because of the employee's actual or perceived gender identity. In addition, it is a violation of this policy for an employee performing their work duties to discriminate against or harass any transgender, intersex, or gender non-conforming individual from outside the Department.

(Approved 06/08/21)