

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 411.00

DATE: 01 February 2020

**SUBJECT: GENDER NONCONFORMING
INMATES/RESIDENTS**

POLICY DIRECTIVE

PURPOSE:

To provide appropriate treatment and accommodations for inmates/residents who are transgender, meet DSM-5 criteria for Gender Dysphoria, or have a verified intersex condition.

REFERENCE:

National Commission on Correctional Health Care (NCCHC) Position Statement: Transgender, Transsexual, and Gender Nonconforming Health Care in Correctional Settings and US Department of Justice's Prison Rape Elimination Act (PREA) standards.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject, including DCR Policy Directive 411.00, dated 01 April 2019.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation. This Policy is available for general distribution and is to be made available for inmate review.

DEFINITIONS:

Gender Dysphoria: Discomfort or distress caused by marked difference between an individual's expressed/experienced gender and the gender assigned at birth. A DSM-5 diagnosis of Gender Dysphoria requires that the condition is present for at least six (6)

months and causes clinically significant distress or impairment in social, occupational, or other important areas of functioning.

Hormonal Therapy: A physical intervention that masculinizes or feminizes the body by administration of hormones, such as testosterone to biologic females or estrogen to biologic males, with the purpose of reducing gender dysphoria and minimizing the risk for depression, anxiety or impairments in functioning.

Intersex: A person whose sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Real-Life Experience: The act of fully adopting a new gender role in everyday life, allowing an individual to experience and test the consequences of the new gender role in the areas of employment, housing, education and relationships with friends, family and significant others. The experience allows for a range of different life experiences and events that may occur throughout the year (e.g., family events, holidays, vacations, season-specific work or school experiences). During this time, individuals present consistently, on a day-to-day basis and across all settings of life, in their desired gender role. The real-life experience tests the individual's resolve, the capacity to function in the preferred gender, and the adequacy of social, economic, legal and psychological support.

Transgender: A person whose transient or permanent gender identity (i.e. internal sense of feeling male or female) is different from the person's assigned sex at birth. A transgender individual may or may not qualify for a clinical diagnosis of Gender Dysphoria depending on the level of distress or impairment this causes.

Transgender Committee: An advisory committee formed by the DCR Director of Correctional Healthcare comprised of agency and facility leadership and officials of the agency's contractual medical and mental health providers.

POLICY:

- I. Inmates/residents may self-identify as transgender or intersex upon intake or at any time during incarceration. If an inmate/resident notifies staff of transgender or intersex status, staff shall notify the Shift Commander, who shall ensure the status is entered in OIS.
- II. Facility and housing assignments of transgender and intersex inmates/residents shall be made on a case-by-case basis.
 - A. Consideration shall be given to the inmate's/resident's health and safety as well as potential programming, management and security concerns. An inmate's/resident's own views regarding safety shall be given careful consideration.
 - B. Facility and housing assignments shall be reassessed at a minimum of every six (6) months to review any threats to safety experienced by the inmate/resident.

- C. Placement may occur at any DCR facility, in General Population, and in most cases a single cell is not necessary.
- D. Inmates/residents who have completed sexual reassignment surgery prior to incarceration shall be placed in a facility after the Superintendent/designee consults with the Transgender Committee.
- E. For the purposes of facility placement, self-inflicted genital mutilation does not constitute sexual reassignment surgery and does not qualify an inmate/resident for placement in a different facility.
- F. Transgender and gender dysphoria inmates/residents shall not be placed in Restrictive Housing based on their gender identity alone, nor shall all gender nonconforming inmates/residents be housed together in housing units or facilities in an attempt to keep separate from other inmates/residents.

III. Accommodations for transgender and intersex inmates/residents will be made as appropriate.

- A. Inmates/residents may request property items through the commissary or other allowable method from the desired gender's approved items.
 - 1. Undergarments of the preferred gender are provided on the condition that they are not visible to others or worn in a manner that is disruptive.
 - 2. Cosmetics may be purchased from the Commissary and used in the intended manner. Any misuse or attempt to compromise security will result in the cosmetics being removed from the inmate's/resident's property indefinitely.
 - 3. Other requests will be considered by the Superintendent/designee on a case-by-case basis, with facility safety and security issues being a determining factor.
- B. Transgender and intersex inmates/residents shall be given the opportunity to shower separately from other inmates/residents.
- C. Respectful communication should be adhered to in manner of address.
 - 1. Facilities shall encourage staff to use gender-neutral forms of address (e.g. Inmate Smith, Resident Smith or Smith) for all inmates/residents.
 - 2. Inmates/residents may use preferred titles of Ms., Miss, Mrs. or Mr. in correspondence, provided the legal first and last names and OIS number are correct.
- D. Pat down searches and strip searches shall occur per current agency policy.

E. Superintendents shall not restrict hair length or facial hair of any inmate/resident unless there is a demonstrated security or hygiene purpose.

IV. Medical and psychological treatment for gender dysphoria will be provided as appropriate.

A. Upon request by an inmate/resident, mental health staff will complete an assessment for Gender Dysphoria using DSM-V Criteria.

B. Not all transgender inmates/residents will need specialized medical or mental health care related to gender issues. The inmates/residents who require this care will generally have a clinical diagnosis of Gender Dysphoria.

C. Inmates/residents diagnosed with Gender Dysphoria shall have access to clinically appropriate treatment options that may include:

1. Mental health treatment that addresses ambivalence and/or dysphoria regarding gender and assists in better adjustment to incarceration.

2. Appropriate psychiatric care.

3. Hormonal treatment, if clinically indicated.

4. Other treatment determined to be medically necessary.

D. An inmate/resident who is receiving hormonal medication at the time of DCR intake may be continued on hormonal medication, provided the following conditions are met:

1. The hormones represent an established treatment that has been prescribed under the supervision of a qualified physician.

2. The inmate/resident cooperates in obtaining written records or other necessary confirmation of his or her previous treatment.

3. The agency's contractual medical provider will determine if the hormones are medically necessary and not contraindicated for any reason.

E. Hormonal therapy shall be managed by the agency's contractual medical provider and/or medical consultant.

F. If an inmate/resident chooses to discontinue hormonal medications while incarcerated and then wishes to restart hormonal medications, the agency's contractual medical provider shall make a determination.

G. Staff who receive a request from an inmate/resident for initial or new hormonal or surgical treatment shall forward the request to the Health Services Administrator.


1. The Health Services Administrator shall request a member of the mental health staff conduct an initial evaluation to help determine whether a Gender Dysphoria diagnosis is appropriate. The initial evaluation shall include:
 - a. A review of any prior medical or mental health treatment records related to gender dysphoria. The inmate/resident needs to cooperate in obtaining written records or other necessary confirmation of previous treatment, if present.
 - b. A detailed description of the inmate/resident's reported gender dysphoria issues.
 - c. Observations reported by housing unit staff, when relevant.
 - d. General mental health history in DCR and in the community, including diagnoses.
 - e. Emotional and behavioral stability within DCR, including adherence to prior treatment recommendations.
 - f. Current mental status.
 2. This evaluation shall be forwarded to the medical provider and used in making treatment recommendations.
 3. If new information becomes available that would significantly affect an earlier recommendation (e.g. prior treatment records become available), an updated evaluation may be completed, and prior treatment decisions may be reconsidered.
 4. Due to the limitations inherent in being incarcerated, a real-life experience for the purpose of gender-reassignment surgery is not possible for inmates/residents who reside within a correctional facility. However, treatment and accommodations may be provided to lessen gender dysphoria.
- V. An agency-level Transgender Committee should include representatives from Security Services, Offender Services and PREA Compliance; directors from contractual medical and mental health providers; and facility representatives such as Superintendent, Chief of Security, PREA Compliance Manager, Health Services Administrator, Psychologist, and others as deemed appropriate. A representative from Legal Services may be included when legal advice is needed.
- A. This Committee shall convene as necessary, but at least quarterly.
 - B. They shall address issues pertaining to inmates/residents who are transgender or diagnosed with Gender Dysphoria or an intersex condition. Facility staff may address concerns regarding treatment or services to the Transgender Committee members.

- C. They may consult with community-based providers who specialize in the evaluation and treatment of Gender Dysphoria to make recommendations regarding medically necessary treatment.
- D. They shall make recommendations to the Commissioner as needed regarding diagnosis, treatment, management issues, allowable property and accommodations.
- E. They may consult with the Superintendent/designee at the facility where an inmate/resident resides when making recommendations regarding management and plans of care.

ATTACHMENT(S):

None.

APPROVED SIGNATURE:


Betsy C. Jividen, Commissioner

1-17-20
Date