



United States Department of Health and Human Services
**Gender Identity Non-Discrimination and Inclusion Policy for
Employees and Applicants¹**

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¹ Although this document refers to employees, this policy also covers applicants and non-employees (e.g., interns, contractors, volunteers, and visitors).

I. Overview

The Department of Health and Human Services (HHS or Department) embraces diversity and strives to maintain an inclusive workplace where all employees have a sense of belonging and can work effectively to achieve the HHS mission. HHS aims to be the employer of choice for our current and future workforce. To accomplish this, HHS must maintain a workplace free from harassment, retaliation, and discrimination based on race, religion, color, sex (including pregnancy, sexual orientation, gender identity, sex characteristics, intersex traits, or expression), parental status, national origin, age, disability, genetic information, family medical history, political affiliation, military service, or other non-merit-based factors.

HHS must attract, fully engage, and retain the best talent, recognizing that workforce diversity facilitates a plethora of ideas, perspectives, and viewpoints, which leads to creativity and innovation. When individuals bring their authentic selves to work, they and HHS thrive.

II. Purpose

This guidance sets forth HHS' non-discrimination and inclusion policy related to gender identity. HHS is committed to an inclusive environment for all employees, including transgender and gender-diverse employees, to address workplace changes (e.g., changing official personnel records or staff directories) and to provide workplace procedures safeguarding gender expression.

III. Coverage

This policy applies to all employees and applicants of HHS Operating and Staff Divisions.

IV. Policy

The HHS mission is to enhance the health and well-being of all Americans by providing essential human services, especially for underserved communities. Fundamental to this mission is the obligation to honor the diversity of the HHS workforce and treat all employees with respect and dignity.

This policy provides guidance to ensure compliance with Federal prohibitions on employment-related sex discrimination and to foster a welcoming and inclusive workplace for employees regardless of gender identity or expression. An individual's decisions about gender identity and gender expression are inherently personal and may result in situations not explicitly mentioned in this policy. This policy is intended to serve as a guide to promote an inclusive workplace, as not all circumstances can be covered in this policy.

V. Definitions

Terms like sex, gender identity, gender expression, and sexual orientation are not interchangeable. For some individuals, sex, gender identity, gender expression, and sexual

orientation are not static and can change. The glossary below is not exhaustive but lists terms relevant to this policy.

Cisgender: a term used to describe a person whose gender identity aligns with the sex they were assigned at birth.

Gender: a social construct of identities, norms, behaviors, and roles that vary between societies and over time.

Gender Expression: how a person acts, dresses, speaks, and behaves (i.e., feminine, masculine, androgynous). Gender expression does not necessarily correspond to assigned sex at birth, sexual orientation, or gender identity.

Gender Identity: an individual's internal sense of self and gender, whether that is man, woman, neither, both, or something else. Unlike gender expression, gender identity is not always outwardly visible to others. For some people, gender identity aligns with one's sex assigned at birth (i.e., cisgender); for others, it does not (e.g., transgender, gender non-conforming, agender, and gender fluid). Gender identity differs in varying degrees from the sex assigned at birth.

Gender Transition: the process of changing the gender presentation, representation, or sex characteristics to accord with an internal sense of gender identity.

Gender Non-conforming: denoting or relating to a person whose behavior or appearance does not conform to prevailing cultural and social expectations on what is appropriate to the gender. Other terms that may be used are genderqueer or non-binary.

Genderqueer: a person who does not subscribe to conventional gender distinctions but identifies with neither, both, a combination of male and female genders, or something else.

Gender Transition: the process a transgender person chooses to undergo to align with their gender identity. Transitioning can include any, none, or all the following: telling friends, family, and co-workers; changing their name and pronouns; updating legal documents; medical interventions such as hormone therapy; or surgical intervention, often called gender-affirming surgery.

LGBTQI+: an acronym often used as an umbrella term referring to lesbian, gay, bisexual, transgender, queer, and intersex individuals.

Non-binary: a term used to describe people who do not describe themselves or their genders as fitting into the binary categories of man or woman.

Transgender: a term that describes a person whose gender identity or expression differs

from the sex assigned at birth and societal and cultural expectations around sex. The term "transgender woman" or "trans woman" typically refers to someone assigned male at birth but identifies as female. Likewise, the term "transgender man" or "trans man" typically refers to someone who was assigned female at birth but who identifies as male. A person does not need to undergo a medical procedure to be considered transgender. Furthermore, not all individuals whose gender identity differs from the sex assigned at birth use the term transgender to describe themselves.

Sex Assigned at Birth: the sex (male, female, intersex) assigned to a child at birth, most often based on the child's external anatomy.

Sexual Orientation: refers to the enduring physical, romantic, or emotional attraction to members of the same or other genders (e.g., including lesbian, gay, bisexual, asexual, and straight orientations).

VI. Operational Procedures

a. Roles and Responsibilities

Office of the Secretary (OS)

- Designate an OS Gender Identity Resource Coordinator (Coordinator) to assist with questions, issues, or concerns managers or employees may have regarding this policy.
- Provide funding and support for periodic training for all employees, managers, and leadership on this policy and its requirements.
- Develop and maintain an HHS public website with resources for gender-diverse employees that includes, at a minimum, the Coordinator's contact information and this policy.

LGBTQI+ Coordinating Committee (Committee)

- Refine and implement the Department's policies and practices to promote a non-discriminatory and inclusive work environment for employees regardless of their sex, gender identity, gender expression, or sexual orientation, consistent with current law and this policy.
- Develop, implement, and increase the availability of training on gender identity and inclusion in the Federal workplace for employees, managers, and leadership.

OS Gender Identity Resource Coordinator (Coordinator)

- Advise the Secretary and senior leadership on all matters related to gender identity inclusion.
- Communicate plans, programs, and initiatives and oversee compliance with this policy and related programs.
- Work in collaboration with the [Office of Equal Employment Opportunity, Diversity & Inclusion \(EEODI\)](#)

(<https://www.hhs.gov/about/agencies/asa/eeo/index.html>) and Anti-Harassment Program Coordinators on issues related to gender identity and stay up-to-date on related issues in the workplace and legal developments in this area of law.

- Serve as the central point of contact on this policy and establish procedures to work with and support employees seeking a gender transition in the workplace consistent with the employee's individualized needs. With the transitioning employee's input and consent, the procedure shall include when and which colleagues to notify; the timing of name and pronoun changes, if applicable, and, consistent with this policy, in email, information technology (IT) systems, and employee profiles; and a process for any gender identity inclusion training for supervisors, managers, and co-workers if such training would be beneficial. The Coordinator will follow up with management, supervisory officials, and the employee to ensure that any workplace changes were completed, all records were changed, and questions or concerns were addressed.
- Shall receive, store, and maintain confidentiality of medical information received about individual employees or applicants in compliance with the provisions of the [Privacy Act \(5 USC § 552a\)](#)² and [Section 501 of the Rehabilitation Act of 1973](#).

Operating Divisions/Staff Divisions (OpDivs/StaffDivs)

- Ensure policies, programs, training, intranet and internet pages, and publications replace gendered language with gender-neutral and gender-inclusive language.
- Work with Human Resources staff, anti-harassment program staff, and Equal Employment Opportunity Office staff to effectively enforce the provisions of this policy.

Human Resources (HR) Offices

- Change or work with applicable offices and teams to change an employee's records to reflect the new name and gender marker as soon as possible but no later than 60 days from the request.
- Ensure this policy is incorporated into the manager and supervisor training curriculum.

Equal Employment Opportunity (EEO) Offices

- Keep apprised of new developments in this area of law.
- Assist with the dissemination of relevant information to employees about this policy.
- Partner with the LGBTQI+ Coordinating Committee to develop gender-inclusive training.

² Privacy Act (5 U.S.C. § 552a): <https://www.govinfo.gov/content/pkg/USCODE-2018-title5/pdf/USCODE-2018-title5-partI-chap5-subchapII-sec552a.pdf>

- Routinely issue notices that any employee who believes they have been subjected to discrimination or harassment based on sex (including gender identity or expression) may file a complaint through the Federal EEO process found in Title 29 Code of Federal Regulations Part 1614.

Chief Information Officers

- Communicate broadly and promote the items listed below within the HHS workforce every six months as a reminder to current employees and awareness for new employees.
 - The permissibility to use the name and gender pronouns an individual chooses in email signature blocks.
 - The permissibility and process to change an individual's email address upon request.
 - The permissibility and process to change an individual's display name in the Global Address List (GAL) or other electronic platforms.
- Streamline the process for updating names, including taking steps to resolve or avoid the inconsistency of names in different systems, so applicants and employees can request an update once and have the update reflected across IT systems.
- Develop a checklist of all records that may need to be changed during a gender transition to help ensure that a record will not be missed.
- Ensure policies, programs, trainings, intranet and internet, and publications replace gendered language with gender-neutral and gender-inclusive language.

Facilities

- Ensure there are no barriers to equally accessing restrooms, locker rooms, lactation rooms, or other personal care spaces.

Managers and Supervisors

- Ensure that there is no discrimination or harassment in the workplace because of an employee's gender identity or expression.
- Set an example for all employees by following this policy. If a manager or supervisor is notified that an employee requests workplace changes due to a gender transition, the manager or supervisor should request permission from the employee to contact the Coordinator to assist with the workplace changes.
- Protect the transitioning employee's privacy and confidentiality and let them decide whether, when, and how to express their gender identity to colleagues.
- Ensure employees are aware of what kinds of behavior are considered unlawful discrimination or harassment and help employees conduct themselves in a lawful and appropriate manner in the workplace. Ensure employees are aware of the consequences of unlawful behavior. If managers or supervisors become aware of derogatory remarks or demeaning behavior toward an employee relating to gender identity or expression, they must take appropriate steps to immediately and effectively stop these activities just as

they would with respect to discrimination or harassment on any other protected basis.

- Collaborate with the OS Gender Identity Resource Coordinator to resolve workplace issues and execute personnel actions.

Employee

- Notify the Coordinator, manager, or supervisor of requested workplace changes.
- If a workplace change requires documentation, as described in this policy and per the requirements of the [Office of Personnel Management \(OPM\) \(www.OPM.gov\)](http://www.OPM.gov), the transitioning employee must provide the required documentation prior to changes or updates to systems.
- If a transitioning employee or applicant believes they have been subjected to discrimination or harassment based on gender identity or expression, the transitioning employee or applicant may raise such claims or allegations with the servicing EEO office or to the [US Office of Special Counsel \(OSC\) \(www.osc.gov\)](http://www.osc.gov) within the applicable timeframes described in [Title 29 Code of Federal Regulations Part 1614](#)³.

b. Privacy and Confidentiality

To the maximum extent possible, all applicants and employees should have control over when, with whom, and how much they share about their gender identity or expression. Information about an applicant's or employee's gender identity or expression (such as the sex assigned at birth, medical history regarding gender or sex, or intersex status) is sensitive personal information. Medical information received about individual employees or applicants is protected under the [Privacy Act \(5 USC § 552a\)](#)⁴ and Section 501 of the Rehabilitation Act of 1973. It will be received, stored, and confidentially maintained per those provisions.

c. Records

Transitioning employees may wish to change their official personnel records or other records to reflect the gender with which they identify.

Many records can be changed to reflect a transitioning employee's name without submitting documentation to support the change (e.g., staff directories, intranet profiles, business cards, email addresses, and nameplates). When an employee requests the Department OpDiv/StaffDiv to change these types of records to reflect a change in name or gender, the OpDiv/StaffDiv will make every reasonable attempt within 60 days of the

³ Title 29 Code of Federal Regulations Part 1614: <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-XIV/part-1614?toc=1>

⁴ Privacy Act (5 U.S.C. § 552a): <https://www.govinfo.gov/content/pkg/USCODE-2018-title5/pdf/USCODE-2018-title5-partI-chap5-subchapII-sec552a.pdf>

request, as feasible, depending on circumstances.

Legal name changes related to gender identity are handled like any other legal name change in the employee's Official Personnel Folder (OPF) and other employee records reflecting legal names (e.g., pay accounts and benefits documents). A legal name change requires documentation. If an employee seeks to change their legal name throughout their entire OPF, including historical personnel records, instructions for doing so are outlined in [OPM's Guide to Personnel Recordkeeping](#).⁵ Managers or supervisors receiving such a request should refer the matter to the Coordinator for further processing.

Employees involved in the record-changing process will ensure that steps are taken to maintain confidentiality. If the employee seeking a workplace transition is uncomfortable with an individual employee's involvement in the record-changing process, this information should be relayed to the Coordinator as soon as possible.

Chief Information Officers and other applicable offices will maintain a checklist of all records that may need to be changed during a gender transition to help ensure that a record will not be missed. This will include personnel records, healthcare records, email addresses, identification tags, nameplates, legal research or other software application login information, computer system login names, etc.

HR will work with insurance carriers and other benefits providers to ensure that the Department and Division records reflect the employee's correct name and gender marker. During this process, transitioning employees who already have Federal insurance benefits will be allowed to continue their participation in their insurance plan,⁶ and employees who are new to the Federal government must be allowed to elect participation consistent with their gender identity.

If an employee requests changes to records, the Coordinator will act as a liaison between the employee and the individuals in the various offices responsible for changing the records. The Coordinator will follow up with the appropriate individuals to ensure that all records are changed in a timely manner.

Employees seeking a workplace transition should contact the Coordinator to request changes, provide the necessary documentation, and cooperate with follow-up information requests. For the Coordinator to effect any requested records changes, the requesting employee must also complete all necessary forms required for record changes. However, it is the Coordinator's role to identify, in consultation with the employee, the records that need to be changed and to determine the appropriate individuals to contact for record changes.

⁵ OPM's Guide to Personnel Recordkeeping: <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/personnel-recordkeeping/recguide2011.pdf>

⁶ In June 2015, the Office of Personnel Management ordered that Federal health insurance benefit providers may not have a blanket exclusion for transition-related coverage.

Consistent with the [OPM's Sexual Orientation and Gender Identity Discrimination guidance](#),⁷ for records requiring evidence to support a record change, the Coordinator will request that the transitioning employee submit acceptable evidence of gender identity, if available, and require evidence of the new name, if changed. Possession of a valid passport, driver's license, or other government-issued identification in the employee's name and gender is acceptable evidence of the name and gender. No further evidence is needed.

If evidence of a change of gender in the identity documents is not obtainable because of state or local requirements or any other reason, the employee's official personnel record may still be updated with their new name and gender marker to reflect a change in gender identity based on medical certification, as per [OPM's Guide to Personnel Recordkeeping](#).⁵

d. Use of Names and Pronouns

All employees should be addressed by the names and pronouns they use to describe themselves. Using correct names and pronouns helps foster a workplace free of discrimination and harassment. This practice also creates an inclusive work environment where all applicants and employees are treated with dignity. The isolated and inadvertent use of an incorrect name or pronoun will generally not constitute unlawful harassment. However, as EEOC explained,⁷ intentional and repeated use of an incorrect name or pronoun (or both) could, in certain circumstances, contribute to an unlawful hostile work environment. For an employee to be referred to by the name they choose and their identified pronouns in everyday interactions, both written and oral, agencies should not require a legal change of name or gender marker, medical certification, or other documentation.

e. Sanitary and Related Facilities

The Department of Labor's [Occupational Safety and Health Administration \(OSHA\)](#) (www.osha.gov) sanitation standards ([29 CFR 1910.141](#)⁸, [29 CFR 1926.51](#)⁹, and [29 CFR 1928.110](#)¹⁰) require agencies to make access to adequate sanitary facilities available for all employees to use when they need to avoid serious health consequences. As EEOC explained,⁷ under Title VII, agencies should allow access to common and single-user restrooms and other facilities corresponding to an employee's gender identity. HHS will not condition this access on an employee having undergone or providing proof of gender-

⁷ EEOC's Sexual Orientation and Gender Identity Discrimination guidance: <https://www.eeoc.gov/sexual-orientation-and-gender-identity-sogi-discrimination>

⁸ OSHA's sanitation standard 29 CFR 1910.141: <https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.141>

⁹ OSHA's sanitation standard 29 CFR 1926.51: <https://www.osha.gov/laws-regs/regulations/standardnumber/1926/1926.51>

¹⁰ OSHA's sanitation standard 29 CFR 1928.110: <https://www.osha.gov/laws-regs/regulations/standardnumber/1928/1928.110>

affirming surgeries or other medical procedures. The Department and OpDivs/StaffDivs will not limit an employee to use facilities at an unreasonable distance from the employee's workstation or inconsistent with the employee's gender identity. In addition, the Department and OpDivs/StaffDivs will not restrict employees to a single-user facility instead of common facilities. They can, however, make a single-user facility available to all employees who might choose to use it. The Department should expand the availability of all-gender restrooms and facilities in federally owned and leased workplaces in coordination with the landholding OpDiv/StaffDiv with jurisdiction over the facility.

If an employee feels uncomfortable sharing a common restroom facility with gender-diverse employees, the employee expressing discomfort should be advised they may use alternative facilities as available. Employees will not be barred from using the restroom consistent with their gender identity.

Any employee who has a need or desire for additional privacy, for any reason, may request the personal use of an already available private room or the use of a curtain in the locker room, where feasible. Any alternative arrangement for an employee will be provided in a way that allows the employee to keep the reason for the request for increased privacy confidential, such as an employee's gender identity or expression.

Employees requesting or requiring help with these issues may contact the Coordinator for assistance.

f. Dress and Appearance

Employees who are part of a uniformed service should follow all uniformed service requirements for dress and hygiene.

Consistent with applicable law, agencies should review and, as necessary, update relevant policies so that all non-uniformed employees are allowed to dress and present the gender identity they wish.

g. Job Assignments

Sexual orientation, gender expression, gender-identity-related medical history, or non-conformity with gender stereotypes have no bearing on job assignments.

HHS employees who relocate due to jurisdictions restricting gender-affirming care to continue receiving such care for themselves or their family members should be accommodated and supported to the extent possible and consistent with any collective bargaining agreement, regulation, or statute. Neither demotion nor job reassignment should be enacted, especially if that employee's position was feasibly administered as a remote position at any prior point. Any determinations related to remote work must be consistent with HHS' policies, practices, and collective bargaining agreements. To the

extent possible, accommodations should be made to support any HHS employees experiencing hostile geographic environments that impact their health and safety.

h. Medical Leave

Employees receiving medical treatment as part of a gender transition or any form of gender-affirming healthcare may use sick leave or other leave available under applicable regulations and policies. Similarly, if the employee chooses to request the use of leave through the Family and Medical Leave Act (FMLA) related to their (or a family member's) transition, the employee must follow the Department's and Division's procedures to request FMLA leave.

This policy makes no legal determination as to whether any gender-affirming medical procedures or conditions meet the Rehabilitation Act's definition of a disability. If an employee requests a disability-related reasonable accommodation under the Rehabilitation Act, such as medically related leave, they must request it through their reasonable accommodation office.

i. Hiring Process and Promotion Selection Decisions

Applicants who were assigned male at birth, born after December 31, 1959, and who are at least 18 years of age are required by civil service employment law ([5 USC 3328](#)¹¹) to be registered with the Selective Service System (SSS) unless they meet specific exemptions under the Selective Service law. However, an individual is not obligated to affirmatively disclose their gender identity or any gender transition-related information during the hiring or promotion process. Hiring or promotion documents (e.g., application materials) relating to an individual who previously transitioned may indicate a name or gender that does not correspond with information gathered during background or reference checks. If this occurs, the hiring official should not automatically assume that the inconsistency is a mistake, deception, or intentional misrepresentation. If the hiring official has any questions about the inconsistency of names or gender on hiring documentation, the official should be directed to HR, which will handle obtaining any needed clarification from the applicant. At no time should a hiring official ask an applicant about gender identity, nor should an applicant's gender identity or expression play a factor in any hiring decision.

Under [5 USC § 300.705](#),¹² agencies must resolve conflicts of information and other questions concerning an individual's Selective Service registration status prior to appointment. An OpDiv/StaffDiv may verify, at its discretion, an individual's registration status by requesting the individual provide proof of registration with or

¹¹ 5 U.S.C. 3328: <https://www.govinfo.gov/content/pkg/USCODE-2021-title5/pdf/USCODE-2021-title5-partIII-subpartB-chap33-subchapI-sec3328.pdf>.

¹² 5 U.S.C. § 300.705: <https://www.govinfo.gov/content/pkg/CFR-2022-title5-vol1/pdf/CFR-2022-title5-vol1-sec300-705.pdf>.

exemption issued by the SSS. As such, HR staff and hiring officials should not automatically reject an application or withdraw an offer of employment for lack of SSS registration without first allowing the applicant to either provide proof of registration or an exemption letter. Those seeking an exemption should consult the SSS website for information on applying for a [Status Information Letter](#)¹³ from the SSS.

j. Training

This policy will be incorporated into all new employee training. The Department, EEO Offices, and Divisions will also incorporate information regarding gender identity in general EEO or diversity communications and training, as appropriate. In addition, the Department and OpDivs/StaffDivs may determine that specialized training is necessary for particular offices or Department-wide. Online and in-person training will be identified and evaluated by the Committee, the OHR Human Capital Programs Division, and Learning Management System Administrators and made available to all HHS employees. Completion of training is not mandatory but strongly encouraged. OpDivs/StaffDivs are welcome and encouraged to develop their own training programs. If an employee requires support, information, or resources on this topic, they should contact the Coordinator.

k. Workplace Transition Process

Intentionally preventing, delaying, or otherwise impeding reasonable workplace changes related to an employee's gender transition will not be permitted or tolerated. If an employee requests workplace changes related to gender transition requiring management assistance, the Coordinator and other appropriate staff will work with the employee individually to ensure a successful workplace transition.

See below for an example of what a transition process may look like:

l. Initiating the Workplace Transition Process

Employees seeking changes in the workplace related to gender transition (e.g., name and pronoun use, records, modifications to bathrooms or locker rooms) associated with gender must initiate the process through their management, supervisory official, or the Coordinator. If the transitioning employee notifies a supervisor or manager first of the impending transition or related request, the supervisor or manager should promptly contact the Coordinator to assist the employee with all aspects of the workplace transition and any requested changes in the workplace.

m. Workplace Transition Plan

¹³ Status Information Letter: <https://www.sss.gov/verify/sil/>.

In consultation with the employee, the Coordinator will develop an individualized transition plan that addresses the workplace changes and assistance the employee seeks and is tailored to the employee's circumstances and comfort level.


Examples of items that the workplace transition plan might address include:

- The employee's correct name and pronouns and when they would like to begin using them.
- Information regarding record changes. This may include the required documentation the employee may need to provide for requested record changes; the date by which the employee should provide the documentation; the planned date by which the Department or Division will change all employee personnel records to reflect the correct name, pronoun, and gender of the employee; and a date for a follow up to ensure that all record changes have occurred.
- When, how, or if others, such as supervisors, managers, and co-workers, will be informed of the transition.
- When or if training or other resources will be provided.

n. Follow-Up

The Coordinator will follow up with management, supervisory officials, and the employee to ensure that any workplace changes were completed, that all records were changed, and that questions or concerns were addressed.

VII. Signature and Date

 _____ Xavier Becerra/Secretary	October 11, 2023 _____ Date
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VIII. Effective and Expiration Dates

This Non-discrimination Policy shall be effective as of the date of its approval, as indicated in the section above. This policy shall remain in effect until it is revised or rescinded.

IX. Appendices

Appendix A: Non-Discrimination and Inclusion Policy and Procedures Relating to Transgender Employees and Applicants - January 19, 2017

Appendix B: Executive Order 13672 - Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors - December 9, 2014

Appendix C: Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation - January 20, 2021

Appendix D: Executive Order 14035, Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce - June 25, 2021

Appendix E: Executive Order 14075 on Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals - June 15, 2022

Appendix F: OPM's Guidance Regarding Gender Identity and Inclusion in the Federal Workforce - March 31, 2023

Appendix G: HHS Pronoun Guidance (To be issued by 10/31/23)