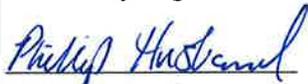




District of Columbia Department of Health <h2 style="text-align: center;">Gender Identity and Expression Protections</h2>		PROCEDURE 260.000 Implementing Office: Office of the Director Training Required: Yes Originally Issued: APR 28 2017 Revised/Reviewed:
Approved by:  LaQuandra S. Nesbitt MD, MPH; Agency Director	Review by Legal Counsel:  Phillip Husband, Esq.; General Counsel	Effective Date: APR 28 2017 Valid Through Date: APR 28 2020

I. Authority	Reorganization Plan No. 4 of 1996; Mayor’s Order 1997-42; Section 273 of the Human Rights Act of 1977 (Act), effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1402.73). 4 DCMR §§ 800-809, 899.
II. Reason for the Policy	The District of Columbia has enacted laws and regulations to ensure that access to services are not denied to anyone on the basis of gender identity or expression, and that no DC Government employees, or any other individuals suffer indignity on the basis of their gender identity or expression. This policy is being established to operationalize these protections within DOH, and establish an organizational accountability structure for addressing violations if and when they occur.
III. Applicability	This policy applies to all DOH employees, contract employees, federal employees assigned to DOH, interns, volunteers, and Summer Youth Employment Program participants assigned to DOH, collectively referred to herein as “employees” or “DOH employees.” Additionally, where indicated, this policy shall also apply to vendors with contracts to provide DOH-funded services, or recipients with grant agreements to provide such services.
IV. Policy Statement	DOH, and its contractors and grantees, shall not engage in any unlawful discriminatory practice on the basis of actual or perceived gender identity or expression. Such unlawful discriminatory practices include, but are not limited to:

1. Refusing to provide any facility, service, program or benefit;
2. Verbal and/or physical harassment;
3. Creating a hostile environment;
4. Denying access to restroom facilities and other gender-specific facilities that are consistent with a person's gender identity or expression.

DOH, and its contractors/grantees shall allow individuals the right to use gender-specific restrooms and other gender-specific facilities such as dressing rooms, homeless shelters, and group homes that are consistent with their gender identity or expression. All DOH single-occupancy restroom facilities shall use gender-neutral signage for those facilities (for example, by replacing signs that indicate "Men" and "Women" with signs that say "Restroom"). Individuals must be able to use the restroom and other gender-segregated facilities (such as locker rooms) that they request to use at all times. Refusing to allow individuals to use the bathroom that is congruent with their gender identity or expression is a form of discrimination under the District of Columbia Human Rights Act.

When requested by a DOH employee, DOH shall make reasonable accommodations (including medical leave, for those employees who accrue medical leave) for transgender-related health care needs that are consistent with such accommodations that are provided for other medical needs. Such needs include but are not limited to medical or counseling appointments, surgery, recovery from surgery, and any other transgender-related procedures.

Neither DOH nor its contractors/grantees shall require individuals to dress or groom themselves in a manner inconsistent with their sex or their gender identity or expression. DOH and its contractors may prescribe standards of dress which shall serve a reasonable business purpose, as long as such standards do not discriminate or have a discriminatory impact on the basis of an individual's sex or the individual's gender identity or expression.

DOH and its contractors/grantees shall provide access to and the safe use of facilities that are segregated by gender. In gender-specific facilities where nudity in the presence of other people is customary, DOH and its contractors/grantees shall make reasonable accommodations to allow an individual access to and

the use of the facility that is consistent with that individual's gender identity or expression, regardless of whether the individual has provided identification or other documentation of their gender identity or expression. Requiring documentation or other proof of an individual's gender is prohibited, except in situations where all persons are asked to provide documentation or other proof of their gender for a reasonable business or medical purpose.

DOH and its contractors/grantees shall not require an applicant to state whether the individual is transgender. If an application form asks for the applicant to identify as male or female, an applicant may choose the gender they identify with, rather than the applicant's assigned or presumed sex. Additionally, an applicant may choose to identify as neither male nor female. Designation by the applicant of a sex that is inconsistent with the applicant's assigned or presumed gender shall not be considered, without more, to be fraudulent or to be a misrepresentation for the purpose of adverse action on the application. An applicant's giving of a name publicly and consistently used by the applicant, even when the name given is not the applicant's legal name, shall not be grounds for adverse action, if the name given is consistent with the applicant's gender identity or expression. However, where use of a person's legal name is required by law or for a reasonable business purpose, the applicant may be required to disclose it. An applicant's failure to disclose a change of gender or name (unless specifically required as part of an application process for a reasonable business purpose) shall not be considered grounds for an adverse action.

If DOH or a contractor/grantee learns through a background check or other means that a person is transgender, the entity shall not, without more, take an adverse action against the individual on the basis of the learned information and shall take reasonable measures to preserve the confidentiality of that information. Disclosure, if it must occur, should be limited and only if it is necessary for a legitimate business reason, or the individual has given permission. Any information shared in a public setting, such as announcing the individual's name in a waiting room or referring to an individual among other employees, must reflect the preferred name and pronouns of the individual. No person within DOH may "out" an individual against their will, or without obtaining their consent. In protecting an individual's

confidentiality, DOH must avoid asking objectively irrelevant questions about their gender identity or expression.

Regardless of the legal name and gender of an individual, DOH and contractors/grantees must use the individual's desired name and pronouns when communicating with them, and when talking about them to third parties. If a DOH employee or an employee of a contractor/grantee is unclear about which pronoun to use, the employee should ask the individual what they prefer, e.g. him/her, she/he or they. DOH and its contractors/grantees must ensure employees respect and use a transgender individual's preferred names and pronouns, as repeated failure to do so can be considered harassment under the District of Columbia Human Rights Act.

If the DOH Office of Human Resources (DOH HR) or a contractor/grantee must know an individual's legal name for HR-related legal necessities, the information should be maintained as a confidential part of their employee file.

DOH and its contractors/grantees must ensure that all harassment, or actions that create a hostile environment based on gender identity or expression, are strictly prohibited. The following behaviors by supervisors or coworkers may constitute unlawful harassment, or a hostile environment, based upon an individuals' gender identity or expression:

1. Deliberately misusing an individual's preferred name or gender-related pronoun;
2. Asking personal questions about an individual's body, gender identity or expression, or gender transition;
3. Causing distress to an individual by disclosing to others that the individual is transgender; and
4. Posting offensive pictures, or sending offensive electronic or other communications.

All DOH MSS employees are responsible for ensuring that their supervisees are aware of this policy, and are expected to enforce the policy in a uniform manner across all supervisees. DOH HR is responsible for ensuring that all new employees beginning a job with DOH, either through new hire, or detail/reassignment from another agency, are apprised of this policy through the new employee orientation process.

The DOH Office of Grants Management (OGM) shall ensure that all grant agreements issued by DOH include standard language to require that recipients adhere to this policy and the regulations from which it is derived. For vendors receiving funding from DOH through contract agreements, DOH contract administrators shall monitor contract performance to ensure that DOH contractors abide by all standard contract language mandated or recommended by the Office of Contracts and Procurement (OCP).

Any DOH employee observing, or receiving a complaint alleging, a violation of another employee's protections around gender identity and expression shall alert his/her supervisor immediately, and the supervisor shall alert DOH HR. DOH HR shall abide by any reporting requirements to the District of Columbia Office of Human Rights (OHR). DOH HR shall engage with any involved union representatives for a productive resolution of any union grievance resulting from an alleged violation of an employee's protections around gender identity and/or expression.

Any DOH employee observing, or receiving a complaint alleging, a violation of an individual's protections around gender identity and expression by a contract vendor receiving DOH funds shall notify his/her supervisor immediately, and the supervisor shall alert the Contract Administrator (CA) and the DOH-assigned Contract Officer (CO) immediately. The CO is responsible for notifying OHR in writing. DOH shall abide by any guidance from OHR on the investigation of the complaint. The CO shall prioritize the needs of the complainant, e.g. ensuring the individual receives services if services were unlawfully denied. A decision whether to sanction the vendor shall be made upon the completion of the investigation.

Any DOH employee observing, or receiving a complaint alleging, a violation of an individual's protections around gender identity and expression by a DOH grant recipient shall notify his/her supervisor immediately, and the supervisor shall alert the Grant Monitor (GM) and the Chief of the DOH Office of Grants Management (OGM) immediately. The Chief of OGM is responsible for notifying OHR in writing. DOH shall abide by any guidance from OHR on the investigation of the complaint. The GM shall prioritize the needs of the complainant, e.g. ensuring the

	<p>individual receives services if services were unlawfully denied. A decision whether to sanction the recipient shall be made upon the completion of the investigation.</p> <p>All DOH employees shall fully cooperate with any investigation of a complaint alleging the violation of an individual’s protections related to gender identity and/or expression. This includes, but is not limited to being interviewed by an investigator, and providing any requested documents. DOH will honor all rights and protections afforded to an employee in a union under the applicable collective bargaining agreement (CBA) throughout the investigation process.</p> <p>Any employee in violation of any provisions of this policy may be subject to commensurate disciplinary action, up to and including termination. As some conduct in this area violates District law, DOH reserves the right to report evidence of potentially illegal actions to the relevant authorities.</p>
<p>V. Definitions & Acronyms</p>	<p>CA- Contract Administrator</p> <p>CBA- Collective Bargaining Agreement</p> <p>CO- DOH-assigned Contract Officer</p> <p>DOH HR- Department of Health Office of Human Resources</p> <p>Gender identity or expression- A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.</p> <p>GM- Grant Monitor</p> <p>OCP- District of Columbia Office of Contracts and Procurement</p> <p>OGM- Department of Health Office of Grants Management</p> <p>Recipient- A private firm receiving DOH funds through a grant or sub-grant agreement.</p> <p>Transgender- is an adjective that refers to any individual whose identity or behavior differs from stereotypical or traditional gender</p>

	<p>expectations, including transsexual individuals, cross-dressers, androgynous individuals, and others whose appearance or characteristic are perceived to be gender-atypical. (NOTE: Transgender is correctly used as an adjective; hence the terms “transgender people” can be used but “transgenders” or “transgendered” is often viewed as disrespectful).</p> <p>Vendor- A private firm receiving DOH funds through a contract agreement.</p>
<p>VI. Procedures</p>	<p>Procedure A: Employee-Related Complaints</p> <ol style="list-style-type: none"> 1. An employee alleging a violation of his/her/their protections related to gender identity and/or expression shall report it immediately to the supervisor. If the allegation is being made against his/her/their supervisor, the individual may report it to the next supervisor in the chain-of-command. 2. If the employee feels uncomfortable reporting the issue through the chain-of-command, he/she/they may report the issue directly to DOH HR or OHR. Employees who are members of a union may report the issue through their union representative. 3. Any supervisor receiving a complaint shall apprise DOH HR immediately. 4. DOH HR shall apprise OHR in writing of the complaint immediately if not already apprised. 5. DOH HR shall investigate the complaint pursuant to any guidance issued by OHR. This includes, but is not limited to: interviews with involved employees, review of documents and records, and/or review of security surveillance footage. If OHR chooses to investigate the complaint directly, DOH HR shall defer these tasks, and fully cooperate with the OHR investigator(s). 6. At the conclusion of the investigation, DOH HR shall make recommendations (or relay those of OHR), if any, for personnel action, or policy changes. Those

recommendations shall be communicated to the Director, and the Senior Deputy Director of the affected administration.

Procedure B: Vendor and Recipient-Related Complaints

1. Any DOH employee observing, or receiving a complaint alleging, a violation of an individual's protections around gender identity and expression by a DOH vendor or recipient shall notify his/her supervisor immediately.
2. The supervisor shall notify the CA and CO immediately if the allegation is against a vendor, or an employee of a vendor. The supervisor shall notify the GM and the Chief of OGM if the allegation is against a recipient or an employee of a recipient.
3. The CO/Chief of OGM shall notify OHR immediately in writing if not already apprised.
4. The CA/CO/GM shall address the needs of the complainant, e.g. ensuring the individual receives services if services were unlawfully denied.
5. The CA/CO/GM shall investigate the complaint pursuant to any guidance issued by OHR. This includes, but is not limited to: interviews with involved individuals, review of documents and records, and/or review of security surveillance footage. If OHR chooses to investigate the complaint directly, DOH shall defer these tasks, and fully cooperate with the OHR investigator(s).
6. At the conclusion of the investigation, the CA/GM, in consultation with the CO and the Chief of OGM, respectively, shall make recommendations (or relay those of OHR) for any sanctions, if any, to be imposed on the vendor/recipient. Those recommendations shall be communicated to the Director, and the Senior Deputy Director of the affected administration.

VII. Contacts	DOH Human Resources Officer DOH-Assigned Contract Officer Chief of the DOH Office of Grants Management
VIII. Related Documents, Forms and Tools	None