United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

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PERSONNEL BULLETIN NO: 13-03

SUBJECT: Transgender and Other Gender Non-Conforming Employee Policy

1. Purpose: This document outlines the Department of the Interior (Department) policy regarding support for transgender and other gender non-conforming employees.

2. Policy

A. It is the Department's policy to treat all of its employees with dignity and respect and to provide a workplace that is free from discrimination whether that discrimination is based on race, color, religion, gender (including pregnancy, gender identity, gender expression, gender change, gender orientation, gender stereotyping, or transgender status), national origin, disability, parental status, political affiliation, genetic information, marital status, membership in an employee organization, age, reprisal, or other non-merit factors. All Department employees are expected to conduct themselves in a manner consistent with their obligation to maintain a work environment free from discrimination, including discrimination on the basis of gender identity or perceived gender non-conformity.

B. Gender identity and gender conformity are inherently personal matters. The Department recognizes that each transgender individual is different and has unique needs, which all fellow employees and supervisors should respect.

C. A transitioning employee is entitled to the benefit of a reasonable "transition plan" in accordance with the guidance contained in this policy.

D. It is the policy of the Department to appropriately protect the personal and medical privacy rights of transgender, gender non-conforming, and/or transitioning employees.

E. Employees who believe their rights have been violated may file a complaint using the equal employment opportunity process.

3. Scope: The obligations set forth in this policy apply to all Department employees, contractors, and volunteers.

4. Authorities:

A. Title VII of Civil Rights Act of 1964 (Title VII) makes it illegal to discriminate against a person on the basis of race, color, religion, national origin, or sex. The law also makes it illegal to retaliate against a person because he/she complains about discrimination, files a charge of discrimination, or participates in an investigation or lawsuit. The law's prohibition on

sex discrimination prohibits discrimination against transgender and other gender non-conforming employees.

B. Executive Order 11478, as amended by Executive Order 12106, and as further amended by Executive Order 13087 (collectively, the Executive Order), prohibits discrimination and ensures equal opportunity for all persons, without regard to race, color, religion, sex, national origin, age, disability or sexual orientation.

5. Definitions

A. Gender Expression: Refers to all of the external characteristics and behaviors that are socially defined as either masculine or feminine, such as dress, grooming, mannerisms, speech patterns and social interactions. Social or cultural norms may vary widely and some characteristics that may be accepted as masculine, feminine or neutral in one culture may not be assessed similarly in another.

B. Gender Identity: The term "gender identity," distinct from the term "sexual orientation," refers to a person's innate, deeply felt psychological identification as male or female, which may or may not correspond to the person's body or designated sex at birth (meaning what sex was originally listed on a person's birth certificate).

C. Gender Stereotyping: The application of simplistic generalizations about the gender attributes, differences, and roles of individuals and/or groups. Stereotypes can be positive or negative, but they rarely communicate accurate information about an individual.

D. Transgender Employees: A transgender employee is an individual who has a gender identity that is different from the physical gender assigned to him/her at birth. A transgender individual may or may not represent him/herself as a gender different than the gender assigned to him/her at birth. Some transgender employees may go through a transition period from one gender to the other.

E. Transition/Transitioning: The process of an individual changing from the gender an individual was assigned at birth to the opposite gender. During the transition period, transgender individuals often seek medical treatment such as counseling, hormone therapy, electrolysis, and/or reassignment surgery. The amount and extent of transition that a transgender individual may elect to undertake varies by individual, ranging from nothing at all to gender reassignment surgery.

F. Ze: A gender-neutral pronoun that can be used in place of he or she.

G. Gender Non-conforming: Displaying gender traits that are not normatively associated with their biological sex. "Feminine" behavior or appearance in a male is gender-variant as is "masculine" behavior or appearance in a female. Gender-variant behavior is cultural.

H. Gender Presentation: Gender presentation or *gender role* means how a person dresses, looks, and acts. Someone who wears men's clothes, and acts in a masculine way has a

male gender presentation. This is different from *gender identity* because people may choose to act one way even if that is not how they feel inside. Sometimes people just call this *presentation.* People may present or express gender in a variety of ways that may or may not correspond with their gender identity. If an individual says they are transgender, the gender they are expressing through their dress, hairstyle, mannerisms, or other behaviors may or may not correspond to the gender an observer might perceive through their presentation. Most people who are NOT transgender, dress and comport themselves in ways that reinforce their gender identity. Transgender people usually do the same, but often they are unable to do so without social and/or medical support. So the first time (or first several times) they are encountered, particularly if they are pre-transition, they may be presenting their gender as they believe they are expected by others to present, rather than as they would feel most comfortable, or as they would if they felt they were free or otherwise able to express their gender identity.

6. Responsibilities

A. Heads of Bureaus and Offices are responsible for ensuring compliance with this policy and ensuring that their human resources and equal employment opportunity (EEO) staffs are educated and prepared to comply with their obligations under this policy if a transgender employee requests support or assistance as provided for herein.

B. Supervisors are responsible for:

(1) Ensuring that all employees in their work area comply with this policy.

(2) Ensuring that transgender, gender non-conforming and/or transitioning employees are not subject to discrimination or a hostile work environment because of their gender identification or presentation.

(3) Ensuring a transgender or gender non-conforming employee going through a transition period, is treated with as much dignity, respect, sensitivity, and confidentiality as any other employee who experiences life challenges, such as marital difficulties, loss of a family member/loved one, or hospitalization. This includes ensuring respect for the personal and medical privacy rights of transgender, gender non-conforming, and/or transitioning employees.

(4) Ensuring that the Department protects the personal and medical privacy rights of transgender, gender non-conforming, and/or transitioning employees.

(5) Instructing other employees to call a transitioning employee by the pronoun with which the transitioning, transgender or gender non-conforming employee identifies.

(6) Working with a transgender employee and the servicing human resources and civil rights office to develop a transition plan addressing the activities and logistics involved in the employee's transition process.

(7) Considering and processing any requests for reasonable accommodation in accordance with 373 DM 15 governing Reasonable Accommodation for Individuals with Disabilities.

C. Employees are expected to comply with this policy, as set forth in Section 2, while on duty and/or while in the workplace.

D. Transgender, gender nonconforming, and/or transitioning or recently transitioned employees are expected to:

(1) At their discretion, communicate with their supervisor regarding their circumstances and be prepared to speak about their intentions, needs and concerns.

(2) If the employee intends to transition assist the supervisor and other agency officials in developing a reasonable transition plan in accordance with this policy.

(3) Notify the servicing Human Resources Office when they have fully transitioned to the gender consistent with the employee's gender identity by providing documents required by the Office of Personnel Management regarding processing personnel actions or personnel record keeping.

(4) Request reasonable accommodation(s) pursuant to the Rehabilitation Act for any disabling medical condition that arises as a result of a transition.

E. Facility Management staff is expected to:

(1) Ensure that facility issues related to transitioning and transgender employees are properly addressed in facility plans.

(2) Ensure that action is taken as quickly as Bureau of Office funding will permit, to make facility adjustments that ensure employees are provided a private space with a locked door and that is appropriately equipped to support any medically necessary activities. Facilities personnel should consult with Human Resources, Public Civil Rights, the employee's supervisor and the employee if there is a question about what space modifications are required. Space provided under this paragraph can be space used by multiple employees. For example, if an employee needs a place to remove, clean, dress and reapply bandages after surgery and another employee requires a similar space for a different legitimate reason, Facilities is not required to equip two separate spaces as long as the shared space meets both employee's requirements.

F. Human Resources personnel are expected to:

(1) Provide guidance and consultative services to supervisors and employees regarding transgender and transitioning employees.

(2) Update personnel and other records to reflect the employee's new gender and name, once a transitioning employee has fully transitioned to the gender consistent with the

employee's gender identity and notified his/her servicing human resources office and consistent with guidance from the Office of Personnel Management.

(3) Ensure that employees in transition are allowed to continue their benefits and participate in all benefit programs (if the employee is legally married, the spouse will continue to receive benefits).

(4) Work with insurance carriers and other benefit providers to ensure that the company's records correctly reflect the employee's name and gender.

(5) Collaborate with the supervisor and when necessary, contract for a case manager to assist the supervisor and work center staff to coordinate and help the transitioning employee and work center staff through the transitioning process.

(6) Follow the Office of Personnel Management guidance at http://www.opm.gov/feddata/Ch4_ReconstructPersonnelFolder.pdf.

G. Training Office personnel are expected to assist the supervisor in establishing appropriate training for co-workers and other interested individuals regarding issues associated with transgender and transitioning employees.

H. Civil Rights/EEO personnel are expected to provide guidance and consultative services to supervisors and employees and other functional areas regarding transgender and transitioning personnel.

I. The Department Directors of the Offices of Civil Rights and Human Resources will appoint a four person assistance team composed of two members from each office. The assistance team will be a central point of contact for bureau and office human resources, civil rights and line managers who need assistance with a transgender case.

(1) The team members will be trained for this responsibility.

(2) In addition to serving as a resource for bureau and office personnel, the team is responsible for training bureau and office civil rights and human resource personnel so that the bureau/office can manage these cases independently as the team is expected to exist for no more than three years.

7. Transition Plan (See Appendix 1 for transition plan guidance.)

A. When an employee notifies a Department official (supervisor, HR specialist, senior executive, etc.) that he or she intends to undergo a gender transition, the employee's supervisor and servicing Human Resource Office shall work with the employee to develop a reasonable transition plan for the organization, to include all organizational components with which the employee interacts on a regular basis.

B. Employees intending to undergo gender transition are responsible for providing the Department advance notice of at least 60 business days so that a transition plan and necessary logistics to implement the plan may be developed and executed within the employee's intended schedule.

C. The transition plan will address the necessary procedures and accountability to ensure a non-disruptive transition period for the employee, management, co-workers and stakeholders.

D. The transition plan should discuss expectations, education and awareness requirements for co-workers and management, legal and personnel requirements, reasonable accommodations, a communication plan, and other logistics as necessary.

E. The transition plan will also include a communication plan chapter. This chapter should be as basic as possible, yet sufficiently comprehensive to address the needs of the transitioning employee, management and co-workers. The scope of the plan should be determined by the transitioning employees' preferences, but suggested topics include:

(1) The communication plan may include topics such as what pronoun the employee prefers, when a name change is scheduled to become effective, reinforce expectations for workplace conduct for fellow coworkers, and any other topic that the transitioning employee is comfortable with sharing to help ensure adequate understanding and awareness among the employee's co-workers.

(2) The communication plan should not address sensitive issues that the transitioning employee is uncomfortable addressing or issues which do not impact the workplace (e.g., it is not a workplace concern as to whether the transitioning employee will be undergoing a gender confirming operation).

(3) The communication plan should be prepared with the intent of dispelling rumors, promoting open view points, and clarifying misinformation, with the end goal of garnering a better understanding of workplace issues.

8. Restroom, Locker Room and Other DOI Owned/Leased Public Facilities

A. Once a transitioning employee begins living and working full-time in the gender that reflects the employee's gender identity and presentation, the employee is allowed access to restrooms and (if provided to other employees) locker room facilities corresponding with the employee's full-time gender identity. Reasonable accommodations providing access to restrooms or locker rooms may be necessary to ensure the privacy, dignity, and respect of all employees.

B. Employees and DOI officials must comply with applicable State laws.

9. Uniforms and Dress Codes

A. Where in the performance of his or her duties an employee is required to wear a uniform, a transitioning or fully transitioned employee shall wear the uniform consistent with the employee's gender identity.

B. Employee dress codes shall avoid gender stereotypes and instead require attire and grooming professionally appropriate to the work unit. Dress codes should address the purposes of:

(1) Maintaining a certain image with customers and stakeholders

(2) Safety, such as requiring closed-toe shoes, goggles, helmets, in certain work environments

(3) Visibility, requiring uniforms or visual identity clothing to ensure staff is clearly recognizable to the public.

B. Where the Department enforces a dress code, a transitioning or fully transitioned employee will abide by the dress code consistent with the employee's gender identity.

10. Point-of-Contact. The Departmental point of contact on this policy is the Department of the Interior, Office of Human Resources, Ralph Charlip, 202-208-2574.

Thomas Mulhern

Director, Office of Human Resources

Attachment: Appendix 1

APPENDIX 1 - TRANSITION PLAN GUIDANCE

1. APPLICABILITY: It is appropriate to adapt this plan to fit an individual or a specific location.

2. ADVANCE PREPARATION

A. The transgender individual meets with the immediate supervisor and shares his or her transgender status and intent to transition.

B. The supervisor and the transgender individual meet with Human Resources (HR) and EEO to share the employee's intent to transition.

C. Additional meetings with the employee's management chain may be necessary to inform, garner support and involve them appropriately in the announcement of the transition.

D. The employee, supervisor, HR and EEO representatives should identify stakeholders. This will include the employee, his or her manager, coworkers, contractors, volunteers, HR, EEO and others such as employee affinity groups.

E. Outline what and how information should be shared with each stakeholder group by developing a communication plan. This part of the plan should be as basic as possible, yet sufficiently comprehensive to address the needs of management, the transitioning employee and co-workers.

- The communication plan should not address issues that the transitioning employee is uncomfortable addressing or issues which do not impact the workplace (e.g., it is not a workplace concern as to whether the transitioning employee will be undergoing a gender confirming operation).

- The communication plan should be prepared with the intent of dispelling rumors, promoting open view points, and clarifying misinformation, with the end goal of garnering a better understanding of workplace issues.

F. Consider specific issues that need to be addressed, for example:

- The date of the transition, i.e., the first day of the change of gender presentation, pronoun usage and name. Recognize that the date of the transition will be driven primarily by the individual's situation and concerns.

- Who, how and when will the employee's workgroup, clients and/or vendors will be informed of the change.

- How much information will be shared at the meeting between employees and the supervisor.

- Decide if, before the general announcement, the employee wants to talk to some of his or her co-workers to disclose his or her plans on a one-on-one basis.

- Whether there will be an educational workshop (a "Transgender 101") given to staff.

- What changes will be made to records and systems, and when.

- How the current policies against discrimination, harassment and benefits will protect this individual.

- If a dress code or uniform policy applies, how the dress code/uniform policy will be followed.

- The expected plan for use of gender-specific facilities, such as restrooms and locker rooms.

- Any time off required for medical treatment, if known.

- What benefits and services are available to support the transition and effected by the transition.

- Consider how long certain HR functions take (e.g., legal name changes in human resource systems, company directory, etc.).

G. Outline the arrangements for name changes to be effective on the day of transition, so that nameplates, badges, etc. will be available on the first day.

H. The transition plan should discuss general expectations of all stakeholders including the transgender employee.

I. The plan should address any reasonable accommodations required. If reasonable accommodation is appropriate, it must be granted using the reasonable accommodation policy and process - not through this policy.

3. THE DAY OF THE ANNOUNCEMENT

Hold a workgroup meeting, or include this issue in an already-scheduled face-to-face meeting. Teleconference in any stakeholders identified as part of the transition plan and cannot be present. Everyone in the workgroup whom the employee interacts with often should be included. *Do not do this by e-mail.* A handout is optional in conjunction with the face-to-face meeting. The employee may choose whether to be personally present at this meeting, depending on the employee's comfort level. The manager of the workgroup (the department head, for example) should make the announcement, in conjunction with the highest level manager in the group, to show support. The manager should:

- Make it clear that the transitioning employee is valued and has management's full support in making the transition.

- Explain DOI policy and recommendations.

- Stress that on the transition day the employee will present him/herself consistently with his or her gender identity and should be treated as such; for example, he or she should be called by the new name and new pronouns.

- Lead by example. Use the new name and pronouns in all official and unofficial communication.

- Make it clear that the process of transitioning should be viewed with respect, while maintaining dignity for the employee and that work will continue as before.

- Answer people's questions.

- If a "Transgender 101" workshop is part of the transition plan, announce it at this meeting and not before. It should be offered before the day of transition.

4. THE FIRST DAY OF FULL-TIME WORKPLACE GENDER TRANSITION

On the first day of transition, the employee's supervisor should ensure the following steps are taken, just as they would for a new or transferred employee:

- Issue a new identification badge with a new name and photo.

- Place a new nameplate on door/desk/cubicle/workstation.

- Update any organization charts, mailing lists, email directory and other references to the new name.

- Follow-up on any name change related issues (email, etc.) as explained on prior page under "Name Changes" section.

- The supervisor should plan to be on site with the worker the first day to make introductions, support the employee, ensure respectful and inclusive treatment and make sure that work returns to normal.