

**DISTRICT OF COLUMBIA  
FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT**

---

**BULLETIN NO. 23**

**May, 2017**

---

**POLICY REGARDING GENDER IDENTITY AND EXPRESSION**

**1. General Prohibitions of Gender Identity or Expression (4 DCMR § 801(e))**

It is unlawful for any person or entity, including agencies of the District of Columbia government and its contractors, to discriminate against a person in employment, housing, public accommodations, or educational institutions on the basis of that person's *actual or perceived gender identity or expression*. For example, in District agencies and in facilities operated by the District or its contractors, it is unlawful for the District or its contractors to:

- a. Refuse to provide any facility, service, program, or benefit of the District of Columbia government;
- b. Engage in verbal or physical harassment based on an individual's gender identity or expression;
- c. Create a hostile environment based on an individual's gender identity or expression; or
- d. Deny access to restroom facilities and other gender specific facilities that are consistent with a person's gender identity or expression.

**2. Definitions (4 DCMR § 899.1)**

- a. Gender Identity or Expression – A gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's sex at birth. (D.C. Official Code § 2-1401.02) Gender Expression is how a person represents or expresses one's gender identity to others, through behavior, clothing, hairstyles, voice or body characteristics.
- b. Sexual Orientation – Includes male or female homosexuality, heterosexuality, and bisexuality, by preference or practice. (D.C. Official Code § 2-1401.02)
- c. Transgender – Transgender is an adjective that refers to any individual whose identity or behavior differs from stereotypical or traditional gender 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).

- d. Gender Transition or Transition – When a person begins to live as and outwardly express themselves according to the gender identity they know themselves to be, rather than the assigned sex at birth. Some, but not all, transgender people undergo medical treatments (such as hormone therapy or surgery), to change their body so that it matches their gender identity.
- e. Transgender Man – A term for a transgender person who identifies as a man.
- f. Transgender Woman – A term for a transgender person who identifies as a woman.

**3. Access to facilities consistent with Gender Identity or Expression (4 DCMR §§ 802, 805)**

**A. Restrooms**

It is the law to allow individuals the right to use gender specific restrooms or locker rooms that are *consistent with their gender identity or expression*. In cases of single-stall restrooms, they must have gender-neutral signs such as “restroom” rather than “men” or “women.” Refusing to allow individuals to use the bathroom or locker-rooms that is congruent with their gender identity or expression is a form of discrimination under the District of Columbia Human Rights Act.

**4. Accommodations for Health Care or other customer needs (4 DCMR §§ 803, 808)**

**A. Employees**

The Department, when requested, shall make reasonable accommodations, including medical leave, for transgender-related and other health care needs. Such needs may include, but are not limited to, medical or counseling appointments, surgery, recovery from surgery, and any other related procedures. This process should be consistent with accommodations that are provided for other medical needs.

**B. Patients**

Regardless of the legal name and gender of an individual, the Department and contractors doing business within and/or on behalf of the District must use the individual’s desired name and pronouns when communicating with them, and when talking about them to third parties. If anyone is unclear about which pronoun to use, they should ask the individual what they prefer, e.g. him/her, she/he or they. The Department shall ensure that all 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 and a violation of Department policy.

Under no circumstances shall members examine any person solely for the purpose of determining that person’s gender.

Members shall not use language that a reasonable person would consider demeaning to another person, in particular, language aimed at a person's actual or perceived gender identity or expression or sexual orientation. Examples include: transsexual (an older term that many find objectionable), transvestite (almost always considered derogatory), he-she, tranny. The terms "crossdresser" and "drag queen" should never be used unless the person tells you they would like to be referred to by that term.

Members shall treat transgender persons in a manner appropriate to the individual's gender identity, which includes addressing them by their preferred name if different from their legal name and shall use personal pronouns ("he," "she," "they" etc.) appropriate to the person's gender identity. To the extent that a member is unsure of how the individual would like to be addressed, it is appropriate for the member to ask the individual in a respectful tone, how they would like to be addressed (e.g., Sir, Mr. Miss, Ms., or none of these) and the name by which the individual wishes to be addressed. This name shall be noted as the preferred name if it differs from the legal name. The gender identity expressed or presented by the individual shall be accepted and honored.

When relevant in providing medical care and necessary information for the hospital, the member shall provide a notation in the Emergency Patient Care Report (EPCR) of the individual's preferred name and their gender identity; and also note their Legally Known As (LKA) or legal name in the report with their birth gender. Other than the notations in this report, this information shall be kept confidential. For example, a transgender man who identifies as Mr. or Sam Scott, but is born a female, and is having a miscarriage or complications from pregnancy, the member should note in the EPCR, "patient gender identity male/preferred name Sam, LKA Felicia Long/birth gender female."

Members shall not question the identified gender.

Members knowledgeable of violations of this policy by other members sworn or civilian or those concerning the quality or treatment of members toward a transgender employee or customer are asked to report such complaints to the EEO and Diversity Program Manager.

A member shall not fail to respond to a call for service or fail to treat any patient on the basis of the gender identity or expression and/or sexual orientation of the individual. Members shall treat every customer and patient with equal dignity and respect.

Transgender individuals shall not be subject to more invasive medical exam or procedures than any non-transgender individual solely on the basis of their transgender identity.

Members shall not require proof of an individual's gender or inquire about intimate details of an individual's anatomy to determine an individual's birth gender.

The member shall provide to the relevant hospital staff information that is medically necessary regarding the transgender individual, so they may treat the person respectfully, while maintaining confidentiality of the information from non-relevant hospital staff.

Medical treatment provided to transgender individuals shall follow the same standards of care as other individuals based on medical need. Members shall handle the situation with the same urgency and respect. Members are reminded that regardless of legal documentation provided, members shall address transgender individuals by their identified gender and by the pronouns associated with their gender identity.

Members shall treat transgender persons in a manner appropriate to the individual's gender identity, which includes addressing them by their preferred name if different from their legal name and shall use personal pronouns ("he," "she," "they" etc.) appropriate to the person's identity. To the extent that any medical equipment, such as an EKG, asks for an individual's gender, the member shall indicate the gender identity. When completing any medical report, the member shall indicate the gender identity and preferred name and also indicate legally known as (LKA) name and birth identity when the member determines that it is pertinent medical information. If a member is unsure of how the patient would like to be addressed, it is appropriate for the member to ask the individual how they would like to be addressed (e.g., Sir, Mr., Miss, Ms.) and the name by which the individual wishes to be addressed. However, members shall not inquire about intimate details of an individual's anatomy or perform any invasive medical exam for the sole purpose of determining the person's birth gender. Similarly, a member shall never include details in a report that may be offensive or insensitive.

#### **5. Recording of gender and name (4 DCMR § 806)**

It is unlawful for District agencies, offices, or contractors to 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 sex they identify with, rather than the applicant's assigned or presumed gender. Additionally, an applicant may choose to identify as neither male nor female. Such designations 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. Where use of a person's legal name is required by law or for a reasonable business purpose, such as verification of education or employment history, the applicant may be required to disclose it. However, 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.

#### **6. Background Checks and Confidentiality (4 DCMR § 807)**

If the Department must know a transgender individual's legal name for HR-related legal necessities, and that legal name differs from their gender identity, the information should be maintained as a confidential part of their employee file. The Department shall not require documentation or other proof of an individual's gender, except in situations where all persons are asked to provide documentation, or other proof of their gender, for a reasonable business or medical purpose.

Information regarding a person's gender transition or modification is confidential. Thus, if the Department or contractor working within and/or on behalf of the District learns through a background check or other means that a person is transgender, the entity must take reasonable measures to preserve the confidentiality of that information and must not take an adverse action against the individual on the basis of the learned information. Regardless of how an agency learns of an individual's gender identity or expression, or transition to a new gender, it must preserve the confidentiality of this sensitive 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 the Department may "out" an individual against their will, or without obtaining their consent. In protecting an individual's confidentiality, the Department shall avoid asking objectively irrelevant questions about their gender identity or expression. If a District entity 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.

**7. Prohibition on harassment and hostile environment (4 DCMR § 808)**

All harassment, or actions that create a hostile environment based on gender identity or expression, are strictly prohibited. For example, the following behaviors by supervisors or coworkers may be considered unlawful harassment or a hostile work environment.

- A. Deliberately misusing a person's preferred name or pronoun;
- B. Asking personal questions about an employee's body, gender identity or expression transition.
- C. Causing distress to an individual by outing a transgender person against their will.
- D. Posting offensive pictures or sending offensive communications.

**8. Reporting and Investigation**

All members knowledgeable of violations of this policy by other members sworn or civilian or those concerning the quality or treatment of members toward a transgender employee or customer are asked to report such complaints to the EEO and Diversity Program Manager. Pursuant to this Policy and DC FEMS EEO Policy, complaints generated by transgender customers and employees shall be investigated and addressed in a timely manner.