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Section-14 Health Services	OP-140147	Page: 1	Effective Date: 04/28/2016
Management of Gender Nonconforming Inmates	ACA Standards: None		
Joe M. Allbaugh, Interim Director Oklahoma Department of Corrections		Signature on File	

Management of Gender Nonconforming Inmates

The purpose of this procedure is to establish processes for the appropriate management of gender nonconforming inmates in the Oklahoma Department of Corrections (ODOC).

It is the policy of ODOC to receive, evaluate, house, and provide secure, safe, and humane custody of all persons, including gender nonconforming inmates. ODOC does not place gender nonconforming inmates, which includes lesbian, gay, bisexual, transgender, or intersex inmates in dedicated facilities, units, or wings solely on the basis of such identification or status. (PREA 115.42/115.242)

I. Definitions

A. Inmate

For the purposes of this procedure, the term “inmate” applies to anyone under the custody or care of a prison or community-based facility operated by or contracted with the ODOC.

B. Gender Nonconforming

The term used when behavior or gender expression by an individual is different from societal expectations related to gender.

C. Transgender

A person whose gender identity differs from their birth sex.

D. Intersex

A condition in which a person is born with external genitalia, internal reproductive organs, chromosome patterns, and /or an endocrine system that does not fit typical definitions of male or female.

E. Lesbian

Commonly refers to women typically sexually attracted to other women.

F. Gay

Commonly refers to men typically sexually attracted to other men.

G. Bisexual

A person who is romantically or sexually attracted to more than one gender or sexual category.

H. Gender Dysphoria (GD)

A condition where there is clinically significant discontent or distress with one’s sex assigned at birth and/or the gender roles associated with that sex.

I. Sex

The sex of individuals assigned at birth based on observed genitalia.

J. The Prison Rape Elimination Act (PREA)

The Prison Rape Elimination Act of 2003, which was signed into law with the goal of preventing, detecting and responding to sexual abuse occurring in confinement facilities.

K. Personal Identity Administrative Review Authority (PIARA)

For the purpose of ensuring adherence to PREA standards for the management and care of gender nonconforming inmates, the director will appoint a designee/designees to serve as the Personal Identity Administrative Review Authority (PIARA). PIARA may consist of any or all of the following:

1. Chief mental health officer;
2. Chief medical officer;
3. Agency PREA coordinator;
4. Health services division manager;
5. Inmate's facility head or designee; and/or
6. Medical and mental health provider at facility level

II. Determining Gender Nonconformity

When determining whether inmates are gender nonconforming, the following will be taken into consideration:

A. Self-identification as Gender Nonconforming

During intake and upon any intra-system transfer, classification staff will ensure a "Self Report Form" ([OP-030102](#), [Attachment B](#)) is completed privately by the inmate, to include whether or not he or she identifies as lesbian, gay, transgender, bisexual, intersex, or gender nonconforming. (PREA 115.41/115.241)

B. Medical or Legal Documentation of Gender Nonconformance

Diagnosis of Gender Dysphoria has been confirmed by a qualified mental health professional based on the diagnostic criteria of the *Diagnostic and Statistical Manual of Mental Disorders*.

- C. Inmate's appearance and/or behavior does not match the gender identity on his or her documents. These inmates will be evaluated by health services to clarify gender nonconformity cases, unless waived by the inmate. This assessment will include review of the "Self Report Form." Medical examinations will not be performed solely for the determination of genitalia characteristics, unless requested by the inmate for verification. Examination of the genitalia may be incorporated into a more general routine physical examination, or for other medical purposes such as cancer screening or subjective complaints pertaining to the genitals. (PREA 115.15/ 115.215)

III. Initiating Review by PIARA

Inmates who are, or perceived to be, gender nonconforming may have their housing, clothing, and health care needs specific to their gender nonconformity assessed by PIARA. This committee will consider each gender nonconforming inmate on a case-by-case basis to ensure fair, safe, and appropriate management of their gender associated requests. (PREA 115.42/115.242)

- A. Consideration by PIARA of an inmate's request will be initiated by the inmate through the grievance process established in [OP-090124](#) entitled "Offender Grievance Process."
- B. PIARA consideration may be requested by health services staff, a facility's PREA compliance manager, or a facility/unit head, if an exception to policy is needed or to determine consistency of agency practice. The referring staff member will complete a "Referral For Gender Associated Requests" ([DOC 140147A](#), attached). The completed form will be scanned and emailed to PIARA@doc.ok.gov
- C. Upon receipt of a PIARA review request, the PIARA will convene to review the request within 30 days

IV. Reasonable Accommodations for Gender Nonconforming Inmates

A. Housing

Health services staff will not determine housing assignments for gender nonconforming inmates, unless the determination is for medical or mental health reasons. If a gender nonconforming inmate is placed in a single cell until proper housing can be determined, the health services staff may make housing recommendations to the facility head, after any necessary medical and/or mental health assessments have been completed. Cases requiring more extensive review will be submitted to the PIARA. Self-inflicted genital mutilation will not constitute surgical reassignment therapy and will not qualify an inmate for placement in a facility for inmates of the opposite sex from the inmate's birth sex.

B. Clothing

Inmates will be provided standard ODOC attire in accordance with [OP-030120](#) entitled "Inmate Property." Gender nonconforming inmates with secondary sexual characteristics such as breasts will receive consideration for undergarments. A "Request for Health Services" form may be submitted for medical evaluation regarding these clothing requests. Medical staff will forward their recommendations to the facility head for approval or denial. If denied, a grievance may be filed in accordance with [OP-090124](#) entitled "Offender Grievance Process." Appeal of the grievance will be made to PIARA who will make the final

determination regarding clothing requests. If approved, the clothing will be issued by the facility where the inmate is housed and noted on the "Inmate Property Inventory Form" ([DOC 030120A](#)). Any authorized undergarments may be worn if they are not visible when the inmate is out of their cell. At no time will authorized undergarments be worn in a manner that is disruptive or provocative.

C. Hormonal Treatment

1. Hormonal treatment of inmates with Gender Dysphoria may be undertaken only after all the following occurs;
 - a. Diagnosis of Gender Dysphoria has been confirmed by a qualified mental health professional based on the diagnostic criteria of the *Diagnostic and Statistical Manual of Mental Disorders*.
 - b. A "Female to Male Hormonal Therapy Risk and Information Form" ([Attachment B](#), attached) or "Male to Female Hormonal Therapy Risk and Information Form" ([Attachment A](#), attached) is read, signed by the inmate and scanned into the inmate's electronic health record.
2. Once the above steps have been completed, hormonal treatment may be considered by the qualified medical provider if the following:
 - a. Hormonal treatment was initiated prior to incarceration; or
 - b. Surgical castration has occurred, verified by examination and/or medical records; or
 - c. The facility medical provider determines hormone treatment is medically necessary and approval from the Chief Medical Officer is obtained.

D. Surgical Sex Reassignment

Surgical procedures for the initiation, advancement, or maintenance of sex reassignment will not be performed, except in extraordinary circumstances, requiring recommendation from PIARA, as well as authorization of both the chief medical officer and the director.

V. References

OP-030102 entitled "Offender Housing"

OP-030120 entitled "Inmate Property"

OP-030601 entitled "Oklahoma Prison Rape Elimination Act"

OP-090124 entitled "Offender Grievance Process"

Prison Rape Elimination Act of 2003, 42 U.S.C.A. §15601

"Diagnostic and Statistical Manual of Mental Disorders"

PREA 115.15/115.215

PREA 115.41/115.241

PREA 115.42/115.242

VI. Action

The chief medical officer is responsible for compliance with this procedure.

The division manager of Health Services is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-140147 entitled 'Management of Gender Nonconforming Offender' dated October 29, 2015

Distribution: Policy and Operations Manual
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
DOC 030120A	“Inmate Property Inventory Form”	OP-030120
DOC 140147A	“Referral for Gender Associated Requests”	Attached

<u>Attachments</u>	<u>Title</u>	<u>Location</u>
Attachment B	“Offender Housing”	OP-030102
Attachment A	“Male to Female Hormonal Therapy Risk and Information Form”	Attached
Attachment B	“Female to Male Hormonal Therapy Risk and Information Form”	Attached