

Policies



Metro

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Subject	Gender Inclusion Policy
Section	Human Resources
Approved by	Marissa Madrigal, Chief Operating Officer
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PURPOSE

To define how existing nondiscrimination employment law protects all employees on the basis of gender identity and expression, and how these protections apply to fully welcoming, including and respecting transgender and nonbinary employees.

APPLICABLE TO

This policy is applicable to all employees, elected officials, interns (paid and unpaid), volunteers, and applicants for employment. Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.

DEFINITIONS

Cisgender (adj.) A person whose gender identity is congruent with their sex assignment; the opposite of being a transgender person.

Gender expression (n.) Includes the ways in which a person presents their gender to society – this can include clothing, body language, hairstyles, interests, behaviors, and/or mannerisms. You cannot assume someone’s gender identity simply by observing their gender expression.

Gender identity (n.) Relates to a person’s internal experience of their gender; one’s innermost sense of being male, female, or another gender, which may or may not align with the person’s body or sex assignment.

Pronoun (n.) or gender pronouns The ways that people refer to themselves and how they want to be referred to in terms of gender. Also referred to as Positive Gender Pronouns or PGPs. New usage of alternative pronouns includes They/Them/Their and Zie or Ze/Hir/Hirs. (Preferred Gender Pronoun is now outdated).

Sex assignment (n.) A label – male or female – assigned by a doctor to infants at birth based on a combination of biological characteristics including chromosomes, hormones, and reproductive organs. Also referred to as birth sex or designated sex. Assigned sex as applied to individuals is often described as “assigned female at birth” (AFAB) or “assigned male at birth” (AMAB).

Transgender (adj.) A broad term that can be used to describe people whose gender identity and/or expression is different from their sex assigned at birth. For example:

- A person whose sex assigned at birth was female but who identifies as male is a transgender man (also known as a trans man or a female-to-male transgender person, or FTM).
- A person whose sex assigned at birth was male but who identifies as female is a transgender woman (also known as a trans woman or a male-to-female transgender person, or MTF).

Some people described by this definition do not consider themselves transgender and may use other words or may identify simply as a man or woman. A person does not need to identify as transgender in order for an employer's gender identity and expression nondiscrimination policies to apply to them.

Transition (v.) The nuanced process of transitioning from one gender identity to another. Not all transgender and nonbinary (TNB) people follow the same path when it comes to "transitioning." While nearly all TNB people undergo some form of social transition, not everyone will pursue legal transition and even fewer will pursue medical transition, for a variety of reasons.

- Social transition: The social process of disclosing to oneself and others that one is transgender and/or nonbinary. This often includes changing a name, pronouns, or gender that is more congruent with one's gender identity and/or gender expression, and different from one's sex assignment, name, and assumed pronouns. This process also may include changing one's gender expression, which may or may not correspond to traditional gender roles.
- Legal transition: The administrative process of legally changing one's name and gender on identity documents such as a passport, driver's license, birth certificate, and social security card to help secure gainful employment, housing, and obtain credit. Accurate documentation reduces likelihood of questions regarding pre-transition history.
- Medical transition: The process of undergoing treatments including pubertal suppression, hormone therapy, and surgical procedures, or receiving services like voice therapy and hair removal to align the body and secondary sex characteristics with one's gender identity.

Note: Sexual orientation vs. Gender identity

Sexual orientation and gender identity are separate and different concepts. The sexual orientation of a transgender person may be straight, gay, lesbian, bisexual, asexual, etc., just as the sexual orientation of a cisgender person may be straight, gay, lesbian, bisexual, asexual, etc.

GUIDELINES

1. Non-Discrimination

Metro is committed to promoting and maintaining a work environment that is free from all forms of unlawful discrimination, harassment or retaliatory conduct. It is committed to creating and maintaining an environment in which each person is respected and valued without regard to protected class/status.

The definition of protected class has been expanded and now includes the following: race, color, religion, sex, national origin, age, marital status, familial status, sexual orientation, gender identity and expression, veteran status, disability or perceived disability, genetic information, juvenile record that has been expunged, or any other status protected by law.

Metro also provides protections to transgender and nonbinary employees in the following employee policies:

- Anti-bullying
- Employee conduct at Metro and MERC visitor venues
- Discrimination and harassment-free workplace
- Non-retaliation

2. Coercion and imposition of beliefs

Under no circumstance should any individuals under this policy attempt to convince a transgender or nonbinary employee to reject or modify their gender identity or expression. It is unacceptable for any individual to attempt to change a person's gender identity or expression through coercion, debate, or admonition.

Individuals are prohibited from attempting to convince or coerce other individuals to disclose or reveal their gender history or gender identity out of curiosity, or for any other non-job reason. A person's gender history and gender identity are private and should be treated with the same care as with other aspects of confidential personal information.

Individuals are prohibited from imposing their personal, organizational and/or religious beliefs on other individuals, including transgender and nonbinary persons. Personal beliefs of an individual shall not under any circumstance impact the way individual needs of other individuals are met.

Metro will not employ, contract with, or make referrals to service providers who engage in harmful so-called "conversion therapy" which is an attempt to change a person's sexual orientation, gender identity or gender expression.

3. Privacy

Transgender and nonbinary individuals have the right to discuss their gender identity or expression openly, or to keep that information private. The transgender or nonbinary individual decides when, with whom, and how much to share their private information. Information about an individual's gender history (such as their sex assignment) will be considered confidential, medical information.

Management, human resources staff, or other employees or officials should not disclose information that may reveal an individual's gender history or gender expression to others in the absence of the business need. This personal or confidential information, or related information, may only be shared with the individual's consent and with others for job-related purposes. For example, when assigned personnel prepare tax information such as W2 form, employment certification such as I9 forms and other similar documents that requiring legal name and sex assignment in certain circumstances.

4. Employee records

All individuals, including transgender or nonbinary persons, have the right to be recognized by the name they use and their gender identity. Upon request from the individual, Metro will change records to reflect a change in name and/or gender. Where possible, records will be changed to reflect a person's chosen name without proof of a legal name change. However, certain types of records may require a legal name. These records include, but may not be

limited to: employment eligibility (I9) forms, W4, PERS, and background check applications. In addition, reporting requirements for things like PERS, Affirmative Action, and EEOC may require individuals to provide both their assigned sex as well as their gender identity. Where possible, records will reflect a person's gender identity.

As quickly as possible, Metro will make every effort to update any photographs at the transitioning individual's workplace, so the transitioning person's gender identity and expression are represented accurately.

If a new or transitioning employee has questions about Metro records or identification documents, the employee should contact Metro's HR Benefits Team at benefits.help@oregonmetro.gov or 503- 797-1570.

5. Names and pronouns

All individuals, including transgender and nonbinary persons, have the right to be addressed by the name and pronoun they use, upon request. A court-ordered name or gender change will not be required.

The intentional or persistent refusal to respect an employee's gender identity can constitute harassment and is a violation of this policy as well as Metro's Discrimination and Harassment-Free Workplace and Anti-bullying policies. Individuals who are unsure of what pronoun a colleague uses, can ask the person how they would like to be addressed in a respectful and professional manner.

6. Workplace transitioning

Employees who transition can expect the support of Human Resources staff and management. Human Resources and management will work with each transitioning employee individually to ensure a successful workplace transition.

Human Resources has established a Standard Operating Procedure (SOP) for workplace transitions. is responsible for ensuring an employee-led transition plan is created and will oversee that plan, scheduling periodic updates with the transitioning employee and their supervisor once the plan is implemented. The following guidance outlines the initial steps to initiate developing a transition plan. The SOP is available on the MetroNet, keyword search: workplace transition.

- a. The transitioning employees may provide notification of a pending transition to their selected first point of contact. This point of contact may include HR, their supervisor, and/or their union representative.
- b. If the point of contact is not HR, then the transitioning employee will first be referred to HR. HR shall make sure the employee knows about this policy, the availability of transition-related health care benefits, and other employee resources for transgender and nonbinary people.
- c. If the transitioning employee's supervisor was not the first point of contact, a meeting between the transitioning employee and the employee's supervisor – and others, if desired by the transitioning employee – should be scheduled and facilitated by HR to ensure the supervisor is aware of the pending transition and has the resources to support their employee.
- d. HR shall take the lead in designing and overseeing the implementation of the workplace transition in close consultation with the employee.

- e. The transitioning employee will then work with HR staff to complete a transition plan that outlines steps for the employee, HR staff, the transitioning employee's supervisor, and, if applicable, their union representative. When approached by an employee preparing to transition, HR shall take the lead in developing and managing the transition plan, in close consultation with the employee.
- f. Management, and specifically the transitioning employee's supervisor, will support and be respectful of employee privacy leading up to the transition and beyond. They will implement transition-related changes such as updating personnel and administrative records, and at the request of the transitioning employee, they will also set expectations for coworkers in facilitating a successful workplace transition.

7. Gender-designated job or task assignments

Generally, Metro does not make gender-based job assignments. In the event that Metro does make a gender-based accommodation or designation, transgender and nonbinary individuals will be assigned in a manner consistent with their gender identity, not their sex assignment.

8. Requests for gender accommodations

Employees performing security pat-downs must prioritize the safety and well-being of any person undergoing a security check, including transgender and nonbinary people. These employees must accommodate a gender designated accommodation request.

For example, a nonbinary person undergoing a security pat-down may request someone on the basis of a gender that best supports their safety and well-being. Screening can be conducted in a private screening area with a witness or companion of the individual's choosing. During a security pat-down, no person will be asked to remove or lift any article of clothing to reveal sensitive body areas.

9. Dress codes

Metro does not have gender-based dress codes. All employees who are subject to a dress code policy must comply with the requirements of that policy. However, absent specific restrictions in the relevant dress code policy, all staff, including transgender and nonbinary employees, have a right to express their gender identity.

10. Restroom accessibility

All employees – transgender, nonbinary, or cisgender - shall have access to the restroom corresponding to their gender identity, or where they feel safest, regardless of their sex assignment.

Any employee who has a need or desire for increased privacy will be provided access to an all-user, single-occupancy restroom when available, regardless of the underlying reason. No employee, however, shall be required to use such a restroom.

11. Locker room accessibility

All employees have the right to use the locker room that corresponds to their gender identity. Any employee who has a need or desire for increased privacy, regardless of the underlying reason, can be provided with a reasonable alternative changing area such as the use of a private area, or using the locker room that corresponds to their gender identity before or after other employees). Any alternative arrangement for a transgender or nonbinary employee will be provided in a way that allows them to keep their gender history confidential.

12. Health insurance benefits

Metro will only enter into health insurance contracts, including mental health and employee-assistance contracts, that provide coverage for gender-affirming treatment and transition-related care.

Metro benefits guides, employee information or other materials distributed to inform individuals of health benefits and programs shall include information on gender-affirming treatment and transition-related care for both medical healthcare and EAP benefits.

13. Sick, medical and protected leave for transition and transition needs

Employees receiving medical treatment as part of a gender transition may use otherwise qualifying sick leave under the applicable collective bargaining agreement or Metro Policy. Eligible employees who qualify under the Family Medical Leave Act (FMLA) and/or the Oregon Family Leave Act (OFLA) may be entitled to take medical leave for their own transition-related needs or those of their families.

14. Prohibited conduct

Metro is committed to creating a safe, welcoming and respectful work environment for all employees, including those who are transgender and nonbinary. Metro will not tolerate bullying behavior in any instance.

Bullying, harassment, discrimination, or violence may include but is not limited to: persistent singling out of one person; shouting or raising one's voice at an individual in public or in private; using intimidating gestures; not allowing the person to speak or express themselves (ignoring or interrupting); using personal insults or offensive nicknames; intentional or repeated misgendering; public humiliation in any form; comments on a person's place of origin; constant criticism on matters unrelated to the person's job performance; spreading rumors or gossip regarding a person; encouraging others to disregard the person's instructions or opinions; deliberately excluding an individual or isolating them from work-related activities such as meetings or work-related gatherings. Bullying may take place in person, over the phone, video or other electronic means, and in written communication.

Any incident of bullying, harassment, discrimination, or violence based on gender identity or expression will be addressed immediately and effectively, including, but not limited to, investigating the incident, providing employees with appropriate resources and taking suitable corrective actions.

It is unlawful and violates Metro’s policy to discriminate in any way (including, but not limited to, failure to hire, failure to promote, or unlawful termination) against an employee because of the employee’s actual or perceived gender identity or expression.

15. Reporting

Individuals are expected to promptly report perceived violations of this policy. Managers and supervisors, directors and leaders must treat all incidents of discrimination as serious and take actions promptly to address or escalate concerns and reports of misconduct.

- Complaints may be submitted in person, by phone or in writing. A complainant may also include a suggested method of resolution.
- A violation of these rules can be reported in different ways and persons. A listing of options and a confidential, online complaint form are available at oregonmetro.gov/reportconcerns.
- Metro encourages the immediate reporting of incidents in order to ensure they are appropriately addressed in a timely manner.
- Department directors may also establish additional procedures that are consistent with this policy, other related Metro policies, and collective bargaining agreements for the handling of such complaints.
- With Human Resources support, the individual who receives the complaint may, but is not required to, discuss options for informally resolving the complaint with the complainant.
- All complaints will be thoroughly and promptly reviewed. Confidentiality will be maintained in the absence of an identified business need.
- If an investigation is conducted, the complainant and all participants in the process should be given a copy of this policy as well as Metro’s Discrimination and Harassment-free Workplace Policy.
- The individual making the complaint and the accused will be notified of the results of the investigation, and whether action will be taken. Immediate action will be taken in situations where prohibited harassment or discrimination occurred.
- If it is determined that a Metro policy has been violated, the enforcement of a corrective and/or progressive disciplinary action will result. Complaints under this policy follow the same reporting/resolution process in alignment with related Metro policies.

16. Retaliation

It is unlawful and contrary to this policy to retaliate against any person objecting to or supporting enforcement of legal protections against discrimination in employment based on gender identity or expression. Metro will not tolerate retaliation against any individual who reports discrimination or harassment, or testifies, assists, or participates in any manner in such an investigation, proceeding, or hearing relating to discrimination or harassment, regardless of the outcome of the harassment complaint. Examples of retaliation include, but are not limited to, demotion, suspension, failing to hire or consider hiring, failing to treat impartially when making employment-related decisions and assigning the individual the least desirable jobs.

RESPONSIBILITIES

Employees

- Learn and comply with Metro's policies, specifically those that support an inclusive workplace such as Discrimination and harassment-free workplace, Non-retaliation, Employee conduct and Anti-bullying.
- Refrain from any coercion or imposition of beliefs to other employees, volunteers, contractors, service and/or program beneficiaries or visitors to Metro's facilities and properties.
- Recognize others by the name they use and their gender identity when interacting with them, or when referencing them verbally and in writing.
- As required or requested, participate in training on gender inclusion and pronouns.

Supervisors , Managers and Department Directors

- Learn and comply with Metro's Supervisor expectations and responsibilities policy, as well as supervisor expectations specific to policies that support an inclusive workplace. These include: Discrimination and harassment-free workplace, Non-retaliation, Employee conduct, Anti-bullying and Supervisor.
- Take complaints and concerns of violation of this policy seriously, including concerns of misgendering and coercion or imposition of beliefs.
- Immediately notify Human Resources of any actual or potential policy violations, or for consultation about potential policy violations.
- Support completion of required training related to this policy.
- Support transitioning employees by participating as requested and required in completion and implementation of a Workplace Transition Plan. This includes requesting and completing changes to records or other materials in support of objectives identified in their transition plan.
- Keep confidential and private, and do not disclose to others any information employees provide regarding their gender identity or expression absent of a business need, and only with management or Human Resources.

Facility managers

Accommodate and support requests for creation or designation of alternative locker room or changing areas and all-user, single occupancy restrooms whenever possible.

Human Resources

- Create and implement Employee Transition plans as provided for in this policy as related procedure documents.
- Coordinate and support employee record or document changes in support of transgender, non-binary and transitioning employees.
- Ensure Metro benefit providers meet requirements under this policy for gender-affirming and transition related care and services.

APPENDIX

Guidelines for employee interactions for a gender inclusive workplace

Safety, respect and inclusion, as well as affirming communication, remain paramount for all Metro employees. Employees shall establish and maintain a culture where the dignity of every employee is respected and all employees feel safe, welcomed and respected.

All employees, regardless of their gender identity or expression, need to feel safe in their surroundings in order to build trusting relationships with one another. In this spirit, the following guidelines apply for all Metro employees as defined in the application of this policy.

- Policies must be established and enforced to promote dignity and respect for all employees served regardless of their gender identity or expression.
- All employees must promote respect for differences among the workforces, reinforce the organization's commitment to including transgender and nonbinary employees, safely intervene and deescalate incidents of discrimination targeting an employee because of their actual or perceived gender identity or expression, and manage stigma often associated with difference.
- All employees must not over-emphasize or focus specifically on gender identity or expression when interacting with another employee.
- All employees must set a good example and address any anti-transgender threats of bullying, harassment, discrimination, violence or microaggressions, including suggestive comments or gestures towards any employee due to their gender identity or expression. This behavior will not be tolerated.
- All employees will have the opportunity to participate in periodic trainings to raise awareness about the psychosocial stress and trauma associated with explicit and implicit transphobia that may contribute to a transgender or nonbinary employee not feeling a sense of psychological safety or trust on the job.
- Periodic trainings are also encouraged to educate staff about the resiliency and resourcefulness of transgender and nonbinary employees that add value and important community representation to Metro's workforce.