

National Oceanic and Atmospheric Administration	NOAA Administrative Order 215-4	
NOAA ADMINISTRATIVE ORDER SERIES	DATE OF ISSUANCE March 31, 2021	EFFECTIVE DATE May 27, 2021
SUBJECT NOAA Policy on Gender Identity Protections		

SECTION 1. PURPOSE.

.01 This Order establishes the National Oceanic and Atmospheric Administration (NOAA) Policy on Gender Identity Protections, which advances NOAA’s goal to provide a workplace that is free from discrimination and fully inclusive of all employees. These protections include all forms of gender identity and gender expression. NOAA strives to ensure equal opportunity and protection from all forms of harassment for all employees, contractors, fellows, interns, grantees, and applicants for employment. This Order is not intended to replace or impede any applicable discrimination complaint processes and does not alter the filing deadlines for invoking those processes.

SECTION 2. SCOPE.

.01 This NOAA Administrative Order (NAO) 215-4 advances NOAA’s goal of a fully inclusive workplace by clarifying roles and setting expectations for respecting gender identity and applies to all NOAA employees, contractors, fellows, interns, and grantees.

SECTION 3. DEFINITIONS.

The following definitions apply only to this policy and are not meant to capture every term associated with gender identity related issues. For a list of additional terms related to gender identity, please see Appendix II.

.01 *Gender Expression*: An individual’s presentation of their gender identity on the outside, often through behavior, clothing, hairstyle, voice, or body characteristics.

.02 *Gender Identity*: An individual’s internal sense of being male, female, other gender, or no gender at all. Since gender identity is internal, one’s gender identity is not necessarily visible to others.

.03 *Gender Non-conforming*: A term used to refer to individuals whose gender expression is different from traditional social expectations related to binary gender roles and may not identify with either male or female genders, or whose identity is a combination of both. Terms such as Non-Binary, Gender Queer, or Two Spirit, can also be associated with Gender Non-conforming.

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.04 *Transgender*: An umbrella term that refers to people whose gender identity and/or expression is different from the gender assigned to them at birth. The term transgender woman typically refers to someone assigned the male gender at birth but who identifies as female. The term transgender man typically refers to someone assigned the female gender at birth but who identifies as male. A person does not need to undergo any medical procedure to be considered transgender. Furthermore, not all individuals who would fall within this definition of transgender identify as “transgender” per se. For example, an individual assigned the gender of male at birth but who identifies as a female may identify, and want to be known and thought of as a woman, rather than a “transgender woman.”

.05 *Transition/Transitioning*: The process some transgender people go through to begin living as the gender with which they identify, rather than the gender assigned to them at birth. This may or may not include hormone therapy, sex reassignment surgery, and other medical treatment and procedures.

SECTION 4. POLICY.

.01 It is NOAA policy to treat every individual with dignity and respect and to provide a workplace that is free from all forms of discrimination, including discrimination based on:

- a. gender identity;
- b. gender expression;
- c. gender non-conformity; and
- d. transgender status.

NOAA expects all employees, contractors, interns, fellows, and grantees to conduct themselves in a manner that demonstrates an appreciation for the diversity of its workforce. Gender identity, gender expression, and gender non-conformity are inherently personal matters. NOAA recognizes that each individual is different and has unique needs and preferences, which all employees, contractors, interns, fellows, and grantees must respect.

.02 *Transition Plans*: At their discretion, a transitioning employee, contractor, intern, fellow, or grantee may coordinate with their first or second line supervisor, and NOAA’s Office of Inclusion and Civil Rights (OICR) to develop an optional, but recommended, “Transition Plan.” The written transition plan should address roles and responsibilities, communications, trainings, timeframes, and other logistics as necessary. However, it should not contain sensitive information the transitioning employee does not wish to include or matters that do not affect the workplace.

Transitioning individuals may make changes to their transition plan at any time. If an employee develops a transition plan with their second line supervisor, the first line supervisor will have access to the final plan. Appendix I includes an example of a transition plan.

.03 *Privacy*: Employees, contractors, interns, fellows, and grantees have the right to openly discuss their gender identity or expression or to keep that information private. Any form of transition, including medical treatment, is confidential information. Intentionally disclosing highly personal information relating to an individual’s transgender status, the gender they were assigned at birth, gender transition, or related medical history, without an official or valid reason,

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or with the intent to purposely harm the individual, is a violation of this Policy and may constitute discriminatory conduct under Title VII of the Civil Rights Act of 1964.

.04 Names and Pronouns: Managers, supervisors, and fellow colleagues shall use the name and pronouns an individual prefers. Intentional and repeated use of an incorrect name(s) and pronoun(s) as well as reference(s) to the incorrect gender for an individual by managers, supervisors, or colleagues may constitute misconduct.

Certain types of records, such as those relating to human resources, security, payroll, and retirement accounts, may require a legal name change before the individual's name can be changed on them. These records shall be updated promptly after presentation of documentation officially recognizing a legal name change. It is incumbent upon the transitioning or transitioned employee to follow all applicable agency policies and procedures for requesting changes in systems and records.

.05 Restrooms: A room providing toilets and lavatories in a public building. The following are legal requirements pertaining to use of restrooms within NOAA facilities:

- a. An individual may use the restroom that corresponds with their gender identity. An individual shall not be asked to provide any medical or legal documentation of their gender identity in order to have access to a gender-appropriate restroom. In addition, no individual shall be required to use a segregated restroom apart from other individuals because of their gender identity or transgender status.
- b. Any individual, regardless of their gender identity or transgender status, who has a need or desire for additional privacy, shall be provided with a reasonable alternative arrangement, where possible. Alternative arrangements may include:
 - i. single-occupancy restrooms;
 - ii. changing rooms;
 - iii. rooms used for medical purposes; or
 - iv. other arrangements, when necessary.
- c. If any individual requests temporary access to a private restroom or private area for changing or medical purposes, the Office of the Chief Administrative Officer (OCAO) will work with facilities' staff to try to accommodate the request to the most reasonable extent possible.
- d. Under no circumstances should an agency require any individual to use a restroom or other facility that is located at an unreasonable distance or travel time from their work station.

.06 Employee Records: A transgender or gender non-conforming employee may request, subject to the conditions of the Office of Personnel Management's (OPM) Guide to Personnel Recordkeeping, Chapter 4, that the records in the employee's official personnel folder and other records (e.g., pay accounts, training records, benefits documents) be changed to reflect the

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employee's new gender identity. A legal name change may be required before the name can be changed in certain records. Appendix I includes additional information about records changes.

.07 Hiring Process: Hiring managers and supervisors should be sensitive to the possibility that an applicant may have transitioned or is transitioning prior to interviewing or onboarding. If such circumstances arise, the name and gender on the application may not correspond with the person's current identity. In such cases, hiring managers and supervisors should confirm with the applicant the name they wish to use and be referred to from that point forward.

.08 Sick and Medical Leave: An employee receiving transition-related care may use appropriate leave under applicable regulations. An employee who is qualified under the Family Medical Leave Act may also be entitled to take medical leave for transition-related needs of their family in accordance with applicable regulations.

.09 Insurance Benefits: As a benefit of Federal employment, a transitioned or transitioning employee and their families will be entitled to insurance coverage in accordance with all OPM rules and regulations under the Federal Employees Health Benefits Program.

.10 Harassment: Applicants and current or former employees are encouraged to report any incident they perceive to be harassment on the basis of gender identity or transgender status, as soon as it occurs, to their:

- a. immediate supervisor;
- b. a higher level supervisor;
- c. Office of Human Capital Services (OHCS); or
- d. The Office of Inclusion and Civil Rights.

Department Administrative Order (DAO) 202-955 outlines processes managers must take to stop ongoing harassment.

.11 Discrimination: Any applicant or employee who believes they have been subjected to gender identity-related discrimination or harassment within NOAA also has a right to initiate a complaint through the EEO process with OICR within 45 calendar days of the alleged incident or the date the employee became aware of the alleged incident.

.12 Individual Plans: Line and Staff offices may supplement this Policy with internal policies and directives to address situations unique to a particular organization. Any such policies must be approved by OICR and the Employment and Labor Law Division within the Department of Commerce's Office of the General Counsel.

SECTION 5. RESPONSIBILITIES.

.01 The *Under Secretary of Commerce for Oceans and Atmosphere* or designee is responsible for ensuring the distribution of NOAA's Policy on Gender Identity Protections, and any accompanying guidance, to all NOAA supervisors, managers, employees, contractors, fellows, interns, and grantees.

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.02 The *Director of the Office of Inclusion and Civil Rights (OICR)* or designee is responsible for:

- a. leading the implementation of NOAA's Policy on Gender Identity Protections in collaboration with appropriate stakeholders;
- b. serving as the central point of contact (POC) for transgender or gender non-conforming employees or supervisors on issues relating to employment, facilities, employee records, benefits, and other needs;
- c. providing guidance to transgender and gender non-conforming employees and applicants for employment on civil rights matters (e.g., discrimination, harassment, and EEO) in accordance with agency policies and applicable Federal laws;
- d. working with offices to arrange training or educational workshops to foster understanding about gender identity issues;
- e. serving as the POC for Staff Offices to assist in the development and review of transition plans; and
- f. designating appropriate OICR staff to serve as the initial POC for the transitioning employee and/or work with the transitioning employee and supervisor to develop a transition plan that addresses the activities and logistics involved in the employee's transition process, upon request by the transitioning employee.

.03 The *Lesbian, Gay, Bisexual, Transgender, Queer Employee Resource Group (LGBTQ ERG)*, established and overseen by OICR, serves as a resource on NOAA policy development regarding equal program delivery (e.g., professional development or work-life balance) and employment, promotion, training and career enhancement opportunities for transgender or gender non-conforming employees and applicants.

.04 The *Director of the Office of Human Capital Services (OHCS)* or designee is responsible for:

- a. advising transgender, gender non-conforming, or transitioning employees on required documentation (e.g., procedures, forms) necessary to change employee records;
- b. processing personnel actions as necessary for transgender and transitioning employees; and
- c. ensuring transitioning employees are allowed to continue their benefits and participate in all benefit programs.

.05 The *Chief Administrative Officer (CAO)* or Office of the CAO (OCAO) designee is responsible for providing assistance on matters related to access and availability of restrooms and changing rooms.

.06 The *Line Office Equal Employment Opportunity/Diversity Program Managers (EEO/DPM)* are responsible for contacting OICR for transition plan development and review and may serve as the initial POC for a transitioning employee.

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.07 Supervisors and Managers are responsible for:

- a. adhering to NOAA's Policy on Gender Identity Protections and ensuring employees are trained, as needed, in agency policy;
- b. providing updated name plates, business cards, website bios, and other materials to reflect any name change according to agency policies and procedures;
- c. taking appropriate action (e.g., provide training) in consultation with their OHCS Employee and Labor Relations Specialist, to prevent and address any inappropriate behaviors which they notice or are made aware of directed toward a transitioning, transgender, or non-conforming employee; and
- d. serving as the initial POC for the transitioning employee and/or working with the transitioning employee and OICR to develop a transition plan that addresses the activities and logistics involved in the employee's transition process, upon request by the transitioning employee.

.08 All Employees are responsible for adhering to the agency's Policy on Gender Identity Protections and all accompanying guidance on transgender, transitioning, and gender non-conforming employees.

.09 Transitioning Individuals:

- a. should, if desired, contact their immediate supervisor, or second line supervisor, and OICR to inform them of their transition plans and specific needs;
- b. should, if desired, work with the appropriate agency contacts (i.e., supervisor, line/staff office EEO program manager, and OICR) when choosing to develop a transition plan that addresses issues relating to employment, facilities, employee records, benefits, and other needs; and
- c. must file required paperwork with appropriate offices for official changes within records, benefits, and communications documentation.

SECTION 6. REFERENCES.

.01 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq.:
www.govinfo.gov/content/pkg/USCODE-2018-title42/pdf/USCODE-2018-title42-chap21.pdf

.02 Executive Order 11478, as amended, Equal Employment Opportunity in the Federal Government: www.archives.gov/federal-register/codification/executive-order/11478.html

.03 Executive Order 13672 – Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity: www.govinfo.gov/content/pkg/DCPD-201400553/html/DCPD-201400553.htm

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.04 Executive Order 13583, Establishing a Coordinated Government-wide Initiative to Promote Diversity and Inclusion in the Federal Workforce. www.govinfo.gov/app/details/CFR-2012-title3-vol1/CFR-2012-title3-vol1-eo13583/context.

.05 OPM, Guide to Processing Personnel Actions, Chapter 20, “Name Change”:
www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/processing-personnel-actions/gppa20.pdf

.06 OPM, The Guide to Personnel Recordkeeping, Chapter 4, “How to Reconstruct a Personnel Folder: How to Reconstruct a Personnel Folder due to a Change in Gender Identity”:
www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/personnel-recordkeeping/recguide2011.pdf

.07 Privacy Act of 1974: www.justice.gov/opcl/privacy-act-1974

.08 NOAA Diversity and Inclusion Policy Statement: www.noaa.gov/organization/inclusion-and-civil-rights/noaa-policy-statement-on-diversity-and-inclusion

.09 NOAA Sexual Harassment Policy Statement: www.noaa.gov/organization/inclusion-and-civil-rights/sexual-harassment

.10 NOAA Equal Employment Opportunity Policy Statement:
www.noaa.gov/organization/inclusion-and-civil-rights/policy-statement-on-equal-employment-opportunity

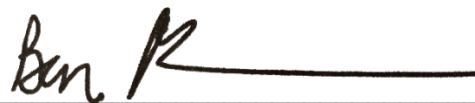
.11 Civil Service Reform Act of 1978, as amended: www.congress.gov/bill/95th-congress/senate-bill/2640

SECTION 7. EFFECT ON OTHER ISSUANCES.

.01 This NAO does not supersede any previously issued NAOs.

.02 The Deputy Under Secretary for Operations Performing the Duties of the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator signs because there is no delegation of authority for this NAO.

An electronic copy of this Order will be posted in accordance with Chapter 100 of the NOAA Records Control Schedule on the NOAA OCAO website under the NOAA Administrative Issuances Section. www.noaa.gov/organization/administration/noaa-administrative-orders



Deputy Under Secretary for Operations
Performing the Duties of the Under Secretary
of Commerce for Oceans and Atmosphere
and NOAA Administrator

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Offices of Primary Interest:

Office of the Under Secretary of Commerce for Oceans and Atmosphere
All NOAA Line and Staff Offices

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APPENDIX I – Transition Plan Template

TRANSITION PLAN

A Transition Plan helps the transition process in the workplace by clarifying roles, steps, and timelines for anticipated completion of identified actions. Transitioning employees, contractors, interns, fellows, or grantees and their supervisors are encouraged to work collaboratively to develop a common roadmap for everyone. The plan should be tailored to meet the needs of individual users and their particular office(s). Some sections may not be applicable to all transitioning individuals or appropriate to the organizational structure of a particular office. Therefore, all sections are optional, and depending on individual circumstances, some may not be applicable. This plan is intended to serve as a guide and is not a contractually binding agreement.

Name*:

Legal Name (if different):

Pronoun(s):

Gender for all personnel records:

Date of notification of transition:

Direct Supervisor(s) to be notified:

**Date of Direct Supervisor(s)
notification:**

Direct Supervisor to be notified by:

OICR Contact:

Date of OICR Consultation:

The Rest of the Transition Support Team

Identify important contacts that will support the transition process at NOAA

**Line Office EEO/Diversity Program
Manager:**

OCAO Contact:

OHCS Contact:

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Transition Milestones

Identify milestones that may be important for office planning and support. Examples may include name change, medical leave, etc.

<u>Milestone</u> <i>(If Applicable)</i>	<u>Timing</u> <i>(Date or Season)</i>	<u>Support Needed</u>
Name Change		
Legal Name Change		Official Court documents needed for this process (provide to Office of Security and Office of Human Capital Services)
Email Address Update		Line Office's or Staff Office's IT Office or NSDesk (1-855-673-3751)
NOAA Directory Update		On-line submission
Name Plate Update		Office Administrative Support Staff/Facilities
Business Cards		Office Administrative Support Staff
Facilities Availability		Office of the Chief Administrative Officer (Facilities)
Medical Leave		Office Administrative Support Staff
Voicemail		Office Administrative Support Staff
Benefits		Office of Human Capital Services; Employee Benefit
Badge Update		OCAO; DEERS & TASS Project Manager
Personnel File		Office of Human Capital Services

Optional Notifications

Will the individual's* coworkers be notified?

Who is responsible for notifying coworkers?

Date of initial coworker notification(s):

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Date of training for coworkers, if applicable:

Do stakeholders need to be told of a new name or pronoun?

Who is responsible for notifying stakeholders?

Date of initial stakeholder notifications:

Record Keeping

The employee is required to provide the following documentation for record changes:

The date by which the individual* will provide documentation:

Date by which NOAA will ensure that all records will be changed to reflect the employee's accurate name, pronoun, and gender, subject to any approval and processing necessary by OPM:

The individual* may modify this plan at any time by notifying the supervisor and OICR contact.

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APPENDIX II – TERMS RELATED TO GENDER ISSUES

Cisgender: An individual who internally identifies as the sex they were assigned at birth.

Gender Expression: An individual's external presentation of their gender identity, often through behavior, clothing, hairstyle, voice, or body characteristics.

Gender Identity: An individual's internal sense of being male, female, or other gender. Since gender identity is internal, one's gender identity is not necessarily visible to others.

Gender Non-conforming: An individual whose gender expression is different from traditional binary gender roles and does not identify as either male or female, and may express themselves as a combination of both.

LGBTQ: An acronym often used as an umbrella term referring to lesbian, gay, bisexual, transgender, queer and questioning individuals.

Sex: The classification of a person as male or female. Traditionally, infants are assigned a sex at birth, usually based on the appearance of their external anatomy, and this is what is written on the birth certificate. A person's sex, however, is actually a combination of bodily characteristics including: chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.

Sexual orientation: Refers to a person's physical, romantic, or emotional attraction to people of the same or opposite sex, to both/all sexes, and/or to no one. Sexual orientation is distinct from gender identity and gender expression. A person's gender identity does not have anything to do with sexual, romantic, or emotional attraction. For example, transgender individuals, just like cisgender individuals, may identify as gay, lesbian, bisexual, asexual, or heterosexual. (See "cisgender" above.)

Transgender: An umbrella term that refers to people whose gender identity and/or expression is different from the gender assigned to them at birth. A person does not need to undergo any medical procedure to be considered transgender. Furthermore, not all individuals who would fall within this definition of transgender identify as "transgender" per se. For example, an individual assigned the gender of male at birth but who identifies as a woman may simply identify, and want to be known and thought of, as a woman, rather than a "transgender woman."

Transgender Woman: Refers to someone assigned the male gender at birth but who identifies as female.

Transgender Man: Refers to someone assigned the female gender at birth but who identifies as male.

Transition/Transitioning: The process some transgender people go through to begin living as the gender with which they identify, rather than the gender assigned to them at birth. This may include a legal gender marker change, name change, and may or may not include medical procedures such as hormone therapy, sex reassignment surgery, and other medical procedures.

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