



NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION

SUMMARY OF CHANGES
AR 494 – TRANSGENDER, INTERSEX, AND GENDER DIVERSE
OFFENDERS
Effective PENDING

Description	Page Number
AR name changed	1
Body of AR revised and updated	all
Definitions added	2
List of other ARs and Medical Directives removed	10
Other minor changes have been made in formatting for improved clarity and consistency.	

James E. Dzurenda, Director

Date

This summary of changes is for training record purposes only. You must also consult the Administrative Regulation and/or Manual for proper instructions.

I, _____, acknowledge receipt of this Summary of Changes and understand it is my responsibility to implement into the course of my duties.

Signature

Date



NEVADA DEPARTMENT OF CORRECTIONS
ADMINISTRATIVE REGULATION

**TRANSGENDER, INTERSEX, AND GENDER DIVERSE OFFENDERS
ADMINISTRATIVE REGULATION – 494**

SUPERSEDES: AR 494 (08/30/17); AR 494 (Temporary, 07/20/17);
AR 494 (Temporary, 2/5/2020)

EFFECTIVE DATE: PENDING

AUTHORITY: NRS 209.131, NRS 209.358, 42 U.S.C. Ch. 147 § 15601, et seq. Prison Rape Elimination Act (PREA) and Federal Register 28, Code of Federal Regulations (CFR) Part 115

RESPONSIBILITY

The Director of the Nevada Department of Corrections (NDOC and Department) is responsible for the implementation of this Administrative Regulation (AR).

The Medical Director and Mental Health Director will ensure that their appropriate assigned subordinate supervisors.

The Wardens will ensure that their appropriate assigned subordinate supervisors have read and understand this regulation.

The Associate Wardens will ensure that their appropriate assigned subordinate supervisors have read and understand this regulation.

Supervisors will ensure that their appropriate subordinate staff members have read and understand this regulation.

Designated staff members will know, comply with, and enforce this regulation.

If, and where applicable, offenders will know and comply with this regulation.

494.01 PURPOSE

To establish guidelines for the identification, treatment, and institutional management of offenders with gender dysphoria diagnosis or identified as transgender, intersex, gender non-conforming, gender non-binary, or gender diverse.

494.02 DEFINITIONS

1. Exigent circumstances: Means any set of temporary and unforeseen circumstances that require immediate action to combat a threat to the security or order of an institution or facility.
2. Gender Dysphoria. A marked incongruence between one's experienced/expressed gender and assigned gender, of at least six months duration, as manifested by at least two of the following:
 - A. A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics).
 - B. A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics).
 - C. A strong desire for the primary and/or secondary sex characteristics of the other gender. A strong desire to be of the other gender (or some alternative gender different from one's assigned gender).
 - D. A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender).
 - E. A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender). The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning
3. Gender Diverse: A person with the identities and/or expressions that are different from social and cultural expectations attributed to their sex assigned at birth.
4. Gender Expression: How an individual expresses their perceived gender to others, through behavior, mannerism, clothing dress, hairstyle, name, etc.
5. Gender Identity: The internal understanding of an individual's own gender.

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6. Gender Non-Binary: A person's gender characteristics or behaviors that do not conform to the traditional gender binary of male or female.
 7. Gender Non-Conforming: A person whose appearance or manner does not conform to traditional societal gender expectations.
 8. Hormone Treatment (HT): A medical intervention that masculinizes or feminizes the body by administration of hormones, such as testosterone and estrogen.
 9. Institution Gender Accommodation Review Committee (IGARC): An institution multidisciplinary committee.
 10. Inter-sex: A person diagnosed with a sexual or reproductive anatomy or chromosomal pattern that does not seem to fit typical definitions of male or female.
 11. Multi-Disciplinary Committee: A committee composed of department and/or institution staff with varied but complementary experiences, qualifications, and skills.
 12. Transgender: A person whose gender identity (i.e., internal sense of feeling male or female) is different from the person's assigned sex at birth.
 13. Transgender and Intersex Review Committee (TIRC): A department multidisciplinary committee composed of individuals set forth in 494.09(1) department staff and subject matter experts.

494.03 POLICY

1. The department will establish procedures to ensure equitable treatment of all offenders, including those who are transgender, intersex, and gender diverse when determining housing, classification, programming, and supervision.
2. All institutions and transportation will establish operational procedures in accordance with this AR, AR 421 Prison Rape Elimination Act (PREA) Manual, AR 422 Search and Seizure Standards, AR 430 Transportation of Offenders, AR 711 Offender Personal Property, and AR 711.1 Offender Property Manual.
3. The department medical and mental health staff will appropriately diagnose, treat, and manage DOC offenders with a gender dysphoria diagnosis as well as those who are transgender, intersex, or gender diverse ensuring a humane and safe correctional environment.
4. An individual's sexual orientation, gender expression, intersex diagnosis, or gender identity will be kept confidential and only disclosed within the Department on a need-to-know basis or if voluntarily requested by the offender.

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5. All staff will interact professionally and respectfully towards transgender, intersex, and gender diverse offenders.

494.04 PROPERTY

1. Transgender or gender diverse offenders, regardless of facility placement, will receive state issue under garments consistent with an individual's gender identity regardless of dysphoria diagnosis.
2. All offenders, including those who identify as transgender or gender diverse and regardless of facility placement, may purchase any commissary including but not limited to: gender affirming items, undergarments and make-up.

494.05 SEARCHES OF TRANSGENDER AND INTERSEX OFFENDERS

1. Staff will not search or physically examine a transgender or intersex offender for the sole purpose of determining the offender's genital status.
 - A. If the offender's genital status is unknown, it will be determined by a medical practitioner during conversations with the offender and by reviewing medical records.
 - B. If necessary, a medical practitioner will conduct a broader medical examination conducted in private with the offender's consent.
2. Searches of transgender and intersex offenders will be conducted in a professional, respectful, and least intrusive manner possible consistent with the security needs of each facility and institution.

494.06 HOUSING AND PROGRAMMING

1. The department prohibits institutions and facilities from placing lesbian, gay, bisexual, transgender, intersex, gender non-conforming, or gender non-binary offenders in dedicated facilities, housing units, or wings solely based on their identification or status.
2. In deciding whether to assign a transgender or intersex offender to an institution or facility for male or female offenders and in making other housing and programming assignments, the agency shall consider on a case-by-case basis whether a placement would ensure the offender's health and safety and whether the placement would present management or security issues.
3. Staff will meet with transgender and intersex offenders in a setting consistent with safety and security needs to ensure as much privacy as possible and will give serious consideration of the offender's own views with respect to their safety when reviewing their housing, work, and program assignments.

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4. In conjunction with the Nevada Offender Tracking and Information System (NOTIS) PREA screening assessment for risk of sexual victimization and abusiveness, staff shall utilize the DOC 1918, Transgender or Intersex Offender Questionnaire. Individuals will be re-assessed every six months and more frequently based upon new information.
 5. Staff will provide the DOC 1918 to their institution or facility PREA Compliance Manager (PCM) or designee within two (2) business days.

494.07 TRANSGENDER OR INTERSEX ACCOMODATION REQUEST

1. Transgender or Intersex offenders may submit a request for a private shower plan, gender search preference and/or housing preference accommodation verbally or in writing to the institution PREA Compliance Manager (PCM)/designee, unit correctional casework specialist, medical or mental health practitioner.
 - A. Accommodations are approved on a case-by-case basis.
 - B. Medical or mental health practitioners receiving an accommodation request or recommending an accommodation, will notify the institution PCM/designee.
 - C. Institutions and facilities will generate an Incident Report (IR) after receiving notification of an offender request for an accommodation.
 - 1) The IR will be appended documenting approved or denied accommodations to include supporting documentation.
 - 2) An accommodation alert must be entered in NOTIS after Warden approval and referencing the associated IR.
 - D. Staff with a need and right to know will be informed of any approved accommodations and procedures.
 - E. Offenders will be notified of the final decision and if approved, the procedure will be followed.
 - F. Deviations from an approved accommodation by staff or the individual will be documented in the NOTIS shift log and notification sent to the PCM or designee.
 - G. Institutions may temporarily deviate from an approved accommodation in exigent circumstances and will document in the NOTIS shift log and notify the PCM or designee.
 - H. Accommodations may be revoked by the Warden or designee for failure to abide by the approved accommodation plan and will be documented in NOTIS.

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- I. Before staff complete a housing move of a transgender or intersex offender, they will review NOTIS for any approved accommodations before moving the offender to a new housing unit absent exigent circumstances.
 2. Private shower plan accommodations
 - A. Transgender private shower plan accommodations will be approved by the Warden/designee and PCM/designee.
 - B. If the shower plan requires modification the Warden/designee and PCM/designee must be notified.
 3. Gender search preference accommodations requests.
 - A. Once the PCM or designee receives the DOC 1918 they have five (5) business days to notify the IGARC chair/designee of the offender's search and housing preference accommodation.
 - B. The multidisciplinary IGARC will meet no later than sixty (60) business days after receiving DOC 1918.
 - C. The IGARC will document their review and recommendations on the DOC 1918 before submitting it to the Warden or designee. The Warden/designee will document approval or denial of the request within fifteen (15) business days.
 4. Gender housing preference accommodation.
 - A. Housing preference accommodation request within the institution the individual is housed will be reviewed by the IGARC and the final decision from the Warden/designee will be documented on a DOC 1917, Transgender – Intersex Review Committee.
 - B. Housing preference accommodation request for gender affirming institution will include multidisciplinary teams from the IGARC where the individual is currently housed and the IGARC from the potential receiving (gender affirming) institution.
 - C. Once the DOC 1918 has been submitted to the PCM/designee, they will notify the IGARC chair/designee within five (5) business days.
 - D. The IGARC chair/designee will coordinate with the IGARC chair/designee from the potential receiving institution and initiate DOC 1917.
 - E. The multidisciplinary IGARC from both institutions will coordinate a date of meeting and the recommendations from both Wardens or their designee will be documented on DOC 1917 and sent to the TIRC Chair.

494.08 INSTITUTION GENDER ACCOMMODATION REVIEW COMMITTEE (IGARC)

1. Each institution and facility shall establish procedures and maintain a multidisciplinary IGARC chaired by the Associate Warden of Programs/designee and will include, but not limited to:
 - A. Medical Practitioner/designee;
 - B. Mental health practitioner/designee;
 - C. Housing unit supervisor (Correctional Sergeant or higher);
 - D. Institution PREA compliance manager/designee; and
 - E. A housing unit correctional casework specialist/designee,
2. The IGARC will consider various factors, including but not limited to:
 - A. Health and safety of the transgender offender to assist with mitigating risk.
 - B. Housing unit and/or cell assignments, application of management variables and programming requirements;
 - ~~C.~~ Whether placement would threaten the management and security of the institution;
 - D. Behavioral history and overall demeanor;
 - E. Physical attributes of the transgender offender transferring (feminizing or masculinizing with noticeable results);
 - F. Prior surgical procedures (initiated or completed);
 - G. Adjustment to incarceration including the gender they adopted while incarcerated; and
 - H. Preference for assignment of gender facility.
3. In preparation of the IGARC meeting, the following will meet with the individual in a location where confidentiality can be maintained to discuss the housing review and protocols and to determine a recommendation based on the individual's needs. (e.g. medical and mental health, programming).
 - A. Unit case manager/designee;
 - B. Medical practitioner/designee; and a

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- C. Mental health practitioner/designee
4. The IGARC chair/designee will gather all evidence and documentation then schedule the multidisciplinary in-person review to determine if the requested accommodation would ensure the offender's health and safety, and whether the assignment would present management or security problems.
 - A. The IGARC will document all relevant information within their respective areas of expertise on the DOC 1917.
 - B. The IGARC chair/designee will provide the DOC 1917 and any other related documentation to the Warden/designee.
 - C. The Warden will review and document their decision to include any reason for denial within fifteen (15) business days unless additional information is necessary.

494.09 TRANSGENDER INTERSEX REVIEW COMMITTEE (TIRC)

1. The department shall establish a multidisciplinary committee chaired by the Deputy Director of Operations/designee and will include, but not limited to:
 - A. Medical Director/designee;
 - B. Mental Health Director/designee;
 - C. Deputy Director of Programs/designee;
 - D. Chief of Offender Management/designee;
 - E. Warden/designee from a male and female institution; and
 - F. NDOC PREA Coordinator/designee
2. The TIRC will review and discuss the best housing for the individual based on the IGARC documentation and the best practices for the care, custody, programing needs, and supervision of the offender.
3. The TIRC will document the committee review on the DOC 1917 and submit their recommendation to the NDOC Director for their final decision.
4. If an individual's request for gender-affirming housing is denied, the individual may submit a subsequent request one (1) year after the date of the denial.
 - A. The offender may be reviewed sooner if significant psychological changes have occurred.

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- B. Self-mutilation does not constitute the need for gender affirming housing.
 - C. Timely emergency treatment and specialty follow-up for genital mutilation or self-harm.
 - D. Offender who engages in any type of genital self-harm will be referred for further mental health evaluation and treatment.
- 5. Individuals placed in a gender affirming facility may be returned to the originally assigned facility due to documented disruptive behavior, management issues, or safety and security concerns.
 - 6. An offender may also request removal from the gender affirming facility based on their feelings of safety.

496.10 HEALTH CARE SERVICES:

- 1. All offenders, including those who are transgender, will be treated with fairness, dignity, and respect in a gender-affirming environment.
- 2. All offenders, including those who are transgender, will receive evidence-based health care that is clinically and developmentally appropriate, culturally sensitive, and offered through a nonjudgmental, gender-affirming approach.
- 3. Offenders diagnosed with gender dysphoria or who are identified as transgender or intersex, or who present with other gender identity concerns shall have access to:
 - A. Psychological treatment that addresses ambivalence and or dysphoria regarding gender identification and assists in better adjustment during incarcerations:
 - B. Appropriate psychotherapy and/or psychopharmacological treatment; and
 - C. Other treatment and accommodations that are determined to be medically necessary by a medical and/or mental health practitioner.
- 4. Transgender offenders who received Hormone Therapy (HT) or Pubertal Suppression (with or without a prescription) before incarceration:
 - A. If the prescribed HT is verified, it should be continued without interruption while waiting for a medical evaluation.
 - B. To determine the best course of treatment, medical and psychiatric records will be requested from the offender/patient's previous medical and/or mental health practitioner.

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- C. If the offender took unprescribed HT or the HT prescription cannot be verified, the practitioner at the facility will determine if the initiation or continuation of the HT is necessary for the offender's overall health, if cessation of the HT would have serious negative consequences, or if consultation and referral to a transgender specialist is warranted.

494.11 GENDER DYSPHORIA

1. If a diagnosis of gender dysphoria is made, a proposed individualized treatment plan will be developed which promotes the physical and behavioral stability of the offender. The development of the treatment plan is not solely dependent upon services provided or the offender's life experiences prior to incarceration.
2. The treatment plan may include services that were, or were not, provided prior to incarceration, including but not limited to:
 - A. Real life experience in the community prior to incarceration;
 - B. Real life experiences after incarceration within a confinement setting;
 - C. Hormone therapy; and
 - D. Counseling.
3. Treatment plans will be reviewed every six (6) months and updated as necessary by the mental health clinician, the psychiatric provider, and the medical provider.
4. The medical and mental health multidisciplinary treatment committee will review and approve the offenders' current treatment plan.

APPLICABILITY

1. This Administrative Regulation requires an Operational Procedure for all institutions and facilities.
2. This Administrative Regulation requires an audit.

REFERENCES

The National Commission on Correctional Health Care (NCCHC) – Transgender and Gender Diverse Health Care in Correctional Settings.

James E. Dzurenda, Director

Date