

# U.S. NUCLEAR REGULATORY COMMISSION GUIDANCE FOR MANAGERS AND SUPERVISORS REGARDING THE INCLUSION OF TRANSGENDER AND GENDER EXPANSIVE EMPLOYEES

## PURPOSE

This guidance provides assistance and advice for managers and supervisors to implement the U.S. Nuclear Regulatory Commission's (NRC's) policy of providing equal opportunity for all employees (including former employees) and applicants for employment, focusing on transgender and gender expansive (TGE) employees, maintaining a workplace that is free of discrimination. This guidance also assists managers and supervisors to adhere to the NRC's organizational values to promote a safe, inclusive, and equitable work environment.

## SCOPE

The guidance provides resources, references, and points of contact for managers and supervisors to support an employee's gender transition before, during, and after coming out. It also discusses basic legal protections for TGE employees and incorporates guidance for management and supervisors on how to respect a TGE employee's identity and expression.

All TGE individuals are entitled to undertake the transition steps that are appropriate for them, and managers and supervisors should treat them with dignity and respect as they do so consistent with the NRC's values and desired culture.

Because language and guidance in this area are constantly changing through case law, Federal regulations, and policy, this document will be updated as necessary to provide the most complete and accurate information available. This guidance has been built on previously issued guidance from the Equal Employment Opportunity Commission (EEOC) and the Department of Labor, as cited below in footnotes.

## COMMON TERMS AND DEFINITIONS<sup>1</sup>

- Agender: A person who identifies as having no gender.
- Cisgender: A person whose gender identity is the same as their assigned sex at birth.
- Deadname: The name that a TGE person was given at birth and no longer uses upon transitioning.
- Gender: One's innermost concept of self as male, female, a blend of both, or neither—how an individual perceives themselves and what they call themselves. One's gender identity can be the same as or different from the sex assigned at birth, as it pertains to social and cultural characteristics related to masculinity and femininity.
- Gender Expansive: An umbrella term sometimes used to describe a person who expands notions of gender expression and identity beyond perceived or expected societal gender norms. Some gender expansive individuals identify as a mix of genders, some identify more binarily as a man or a woman, and some identify as no gender. A gender expansive person might feel that they exist among genders, as on a spectrum, or beyond the notion of the man/woman binary paradigm. Sometimes a gender expansive person uses gender-neutral pronouns, but they can exist as any gender while using any pronouns.
- Gender Expression: External appearance of one's gender identity, usually expressed through behavior, clothing, haircut, or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.
- Gender Nonconforming (GNC): Broadly, an individual whose gender identity or gender expression differs from the gender norms associated with the sex they were assigned at birth.
- Genderqueer: An individual whose gender identity does not align with a binary understanding of gender and often, though not always, sexual orientation. A person who identifies as genderqueer may see themselves as being both male and female, neither male nor female, or as falling completely outside these categories.
- Intersex: An individual who identifies as intersex is born with a variety of differences from the presumed binary sex in one or more of their sex traits (see Sex and Sex Assigned at

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<sup>1</sup> These definitions, in variations, can be found in a number of sources, including those by [the National Center for Transgender Equality](#), [the American Psychological Association](#), [the American Anti-Defamation League](#), [PFLAG](#), [Merriam-Webster](#). These definitions can vary depending on the source, and this is only a sampling of possible explanations from a wider variety of sources. These definitions are commonly accepted in and among the LGBTQIA+ community.

Birth). A person who is intersex may also identify as transgender, GNC, or gender expansive.

- **Nonbinary:** A person who does not identify exclusively as a man or a woman. They may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories. While many also identify as transgender, not all nonbinary people do.
- **Pronouns:** A personal pronoun (such as I, you, she/he, him/her, they/them, ze/zim, xe/xem, or sie/hir) expresses a distinction of person. Pronouns are driven by an individual's sense of gender identity. For simplicity and inclusivity, this document uses they/them/theirs. Additional information pertaining to pronoun usage can be found in the "Names and Pronouns" section below.
- **Sex and Sex Assigned at Birth:** While often confused with gender, sex is a combination of a variety of factors, including physical characteristics, chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics. These characteristics manifest themselves differently in everyone. At birth, people are commonly medically assigned a binary sex based on mainly external traits. Currently in the United States, they are assigned male or female.
- **Transgender:** An individual with a gender identity that is different from the sex assigned to them at birth. Someone who was assigned the male sex at birth, but who identifies as female is a transgender woman. A person assigned the female sex at birth, but who identifies as male is a transgender man. A person who has a gender identity other than the binary definitions of male or female may simply self-identify as transgender. Moreover, some individuals who would fit this definition of transgender do not identify themselves as such, prefer to use a different term, or may identify simply as men and women, consistent with their gender identity.
- **Transition/Transitioning:** Transitioning is the process some transgender individuals go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth. This may or may not include hormone therapy, sex reassignment surgery, and other medical procedures. Not all transitioning people go through the same process. The medical aspects of an individual's transition will often be less apparent, and in most cases are less important from a personnel management perspective than an individual's social transition at the workplace.

## POTENTIALLY OFFENSIVE TERMS

Language is constantly evolving, and the language regarding TGE individuals is no different. While there are terms that are generally considered offensive among most people, individuals

have their own preferences as to how to describe themselves. As a practice, it is always best to allow the individual to describe themselves and to respect whatever language they use.

## NAMES AND PRONOUNS

Gender identity is internal to the individual, and so a name or pronoun is inherently personal to the individual. Once a TGE person requests you to not use their deadname or establishes that they now go by a different name, refrain from using the deadname. For a person who is transitioning (or has transitioned), referring to that person by their deadname, even if it is still their legal name, may be offensive and hurtful. Understanding that mistakes can occur, the TGE individual will most likely correct you, and you should refer to their chosen name afterwards whenever and wherever possible. Continued intentional use of an incorrect name and incorrect pronouns for an employee and reference to an incorrect gender for an employee by managers, supervisors, or employees may be considered a form of harassment.<sup>2</sup>

Generally, people use pronouns (such as, but not limited to you, she, he, and they) in order to avoid repeating the individual's name. This occurs in both oral and written communications. When a person shares their personal pronouns with others, they are communicating the third-person singular pronouns that they would like others to use when referring to them in a conversation. These pronouns may change over the course of one's life and are not necessarily tied to sex assigned at birth. He and she pronouns typically refer to a male-identified and female-identified individual, respectively. Gender-neutral pronouns (e.g., they/them, ze/zim, xe/xem, sie/hir) do not associate the subject of a sentence with a specific gender. Most people who identify as nonbinary, genderqueer, GNC, gender expansive, and agender do not exclusively identify with he or she pronouns. Much like individual names, pronouns are tied to the deepest sense of identity. Using an individual's correct pronouns is an affirmation of self for all individuals and especially for TGE individuals. It validates one's identity, encourages authenticity, and builds truly inclusive and supportive cultures. It is always a best practice to use the pronouns supplied by the individual in order to foster a more inclusive environment. It is important to note that some people go by only their name and use no pronouns. For more information on pronouns, visit the [NRC Pride Alliance Advisory Committee SharePoint site](#).

## DRESS AND APPEARANCE

A TGE individual may wear the clothes that make them feel most comfortable and authentic. These clothes may or may not align with societal-conforming gender norms. Managers and supervisors should not allow societal norms related to fashion to dictate how a TGE individual dresses or prevent a TGE employee from living full-time in the role in which the individual feels most comfortable and authentic.

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<sup>2</sup> U.S. Equal Employment Opportunity Commission [Guidance on Sexual Orientation and Gender Identity Discrimination](#); *Bostock v. Clayton County*, 140 S. Ct. 1731 (June 15, 2020)

## SANITARY AND RELATED FACILITIES

The U.S. Department of Labor's Occupational Safety and Health Administration guidelines require the NRC to provide as free as possible access to adequate sanitary facilities for all employees in order to avoid serious health consequences.<sup>3</sup> Further, the Equal Employment Opportunity Commission (EEOC) has taken the position that employers may not deny an employee equal access to a bathroom, locker room, or shower that corresponds to the employee's gender identity.<sup>4 5</sup> This also means that a transgender man can use a lactation room, as needed.

## CONFIDENTIALITY AND PRIVACY

An employee's transition should be treated with as much sensitivity and confidentiality as any other employee's significant life experiences. Personal information about the employee should be considered confidential and should not normally be released without the employee's consent. This includes the employee's status as a TGE person. Exceptions may apply where the manager has a legal duty to disclose personal information. For example, under the agency's Procedure for Preventing and Eliminating Harassing Conduct, a manager may have a duty to disclose an employee's status as a TGE person if the basis for the manager's reporting is related to the individual's identity under LGBTQIA+ umbrella.

## AGENCY RESOURCES

The Office of Small Business and Civil Rights ([SBCR](#)) is the central point of contact for civil rights matters (discrimination, harassment, and equal employment opportunity) affecting TGE employees. If an individual believes they have been discriminated against or harassed based on their gender identity, they may exercise their rights to [file a complaint of sex discrimination under the SBCR equal employment opportunity complaint process](#). In addition, if an individual believes they have been subjected to harassment, they should immediately report it to their supervisor or manager, or to the Office of the Chief Human Capital Officer, under the [Procedure for Preventing and Eliminating Harassing Conduct in the Workplace](#). As a manager, if you have questions about specific circumstances, please contact your servicing Employee Labor Relations ([ELR](#)) Specialist.

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<sup>3</sup> U.S. Department of Labor's Occupational Safety and Health Administration [restrooms and sanitation requirements](#).

<sup>4</sup> U.S. Equal Employment Opportunity Commission [Guidance on Sexual Orientation and Gender Identity Discrimination](#); *Bostock v. Clayton County*, 140 S. Ct. 1731 (June 15, 2020)  
U.S. Equal Employment Opportunity Commission [Protections Against Employment Discrimination Based on Sexual Orientation or Gender Identity](#).

## Suggested behavior and SUPPORT

Managers and supervisors should consider the following suggestions:

- Respect and use an individual's chosen name and pronouns, regardless of how they decide to dress or express themselves.
- Do not address an individual by their deadname.
- Respect an individual's choice in the use of restroom facilities.
- Treat individuals with respect and validate their gender identity.
- Do not discuss anything sensitive about an individual's transition that they are not comfortable sharing (e.g., medical transition questions).
- Managers and supervisors should support the individual's transition, including, but not limited to, by approving leave or time off and approving flexible work hours and location, consistent with Agency policy.
- Be considerate while hiring and interviewing individuals. For example, hiring managers and supervisors may decide to introduce themselves with their name and pronouns to show inclusivity and respect.
- Hiring managers and supervisors should be sensitive to the possibility that an applicant may have transitioned. Assumptions regarding an individual's identity, appearance, and pronouns may be incorrect. The applicant's name, pronouns, how they identify, and how they express themselves may not match societal expectations. For example, an individual's name in their job application may be typically associated with a particular gender, but that may not always be the case (e.g., Alex).