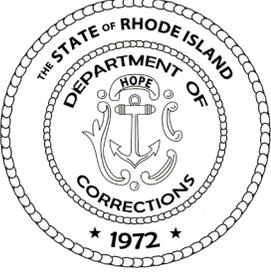


RHODE ISLAND DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE

	POLICY NUMBER: 9.52 DOC	EFFECTIVE DATE: 01/12/2023	PAGE 1 OF 15
	SUPERSEDES: N/A	DIRECTOR: Please use BLUE ink. 	
SECTION: SECURITY AND CONTROL		SUBJECT: MANAGEMENT OF GENDER DIVERSE AND INTERSEX INMATES	
AUTHORITY: Rhode Island General Laws (RIGL) § 42-56-10 (22), Powers of the director			
REFERENCES: DOJ Final PREA Standards 115.11 Zero tolerance of sexual abuse and sexual harassment; 115.15 Limits to cross-gender viewing and searches; 115.31 Employee training; 115.41 Screening for risk of victimization and abusiveness; 115.42 Use of screening information; 115.43 Protective custody. The most recent versions of RIDOC policies 3.14 DOC, Staff Code of Ethics and Conduct ; 9.14 DOC, Detecting and Confiscating Contraband on Inmates/ Detainees or in Inmate Transport Vehicles ; 9.33 DOC, Inmate Housing Assignments ; 9.49 DOC, PREA (Prison Rape Elimination Act) Policy ; 14.01 DOC, Intake and Committing Process ; and 18.30 DOC, Receiving Screening and Mental Health Evaluation of New Commitments .			
INMATE / PUBLIC ACCESS?		X YES	
AVAILABLE IN SPANISH?		X YES	

I. PURPOSE:

- A. To establish procedures for the management of gender diverse and intersex inmates that provide for their safety, security and health care needs while in the custody of the Rhode Island Department of Corrections (RIDOC).
- B. To provide further support to RIDOC's Prison Rape Elimination Act (PREA) prevention, detection and response efforts, including, but not limited to, those contained within the most recent version of RIDOC policy 9.49 DOC, [PREA \(Prison Rape Elimination Act\) Policy](#).

II. POLICY:

- A. RIDOC shall manage gender diverse and intersex inmates in the same safe, secure, orderly, constitutional, and humane correctional environment that it provides to all inmates in its custody.
- B. Staff shall maintain the privacy and confidentiality of information of gender diverse and intersex inmates to the fullest extent possible while also ensuring the safety and security of the facility.

III. DEFINITIONS:

The following definitions are provided for guidance:

- 1. **Assigned Sex at Birth** – the designation of male or female at birth, usually by a medical professional, based on the individual’s genitalia.
- 2. **Cisgender** – describes an individual whose gender identity matches their assigned sex at birth.
- 3. **Gender** – a social construct based on a group of emotional and psychological characteristics that identify an individual as male or female.
- 4. **Gender Affirmation** – a process by which individuals align their anatomy (medical transition), identity documents (legal transition), and/or gender expression (social transition) with their gender identity.
- 5. **Gender Affirming Health Care** – medical treatment that affirms an individual’s gender identity, as experienced and defined by the individual (i.e., hormone therapy).
- 6. **Gender Diverse** – describes an individual who does not conform to traditional societal gender expectations (i.e., transgender, nonbinary, etc.).
- 7. **Gender Diverse and Intersex Review Board (Board)** – an interdisciplinary board responsible for making recommendations to the Assistant Director of Institutions/Operations (ADIO) regarding the housing of gender diverse and/or intersex inmates in male or female facilities. This Board is comprised of the PREA Coordinator/designee, Supervisor of the Special Investigations Unit (SIU)/designee, Medical Director/designee, Director of Behavioral Health/designee, the Warden/designee of the facility where the inmate is

- currently located, and a correctional Supervisor from the facility where the inmate is currently located. The PREA Coordinator/designee is the Chairperson of the Board.
8. **Gender Expression** – an individual’s presentation or communication of their gender to others, through hairstyles, clothing, physical mannerisms, alterations of their body, or name and pronoun.
 9. **Gender Identity** – an individual’s sense of their own identity as male, female, in between male and female, or an identity outside the male/female binary. An individual’s gender identity may or may not align with that person’s assigned sex at birth.
 10. **Intersex** – a general term used for variations in sex characteristics in which an individual is born with a reproductive system or sexual anatomy that doesn’t fit into the typical definitions of female and male. Variations may appear in an individual’s chromosomes, genitals, or reproductive organs such as testes or ovaries. Some intersex traits are discovered at birth, while others may not be discovered until puberty or later in life.
 11. **Nonbinary** – describes an individual whose gender identity does not fit into the male/female binary.
 12. **Transgender** – describes an individual whose gender identity is different from their assigned sex at birth.

IV. **PROCEDURES:**

- A. **Determination or Report of Gender Diverse or Intersex Status**
 1. Gender diverse and intersex inmates must be processed in accordance with standard intake and committing procedures. Please refer to the most recent versions of RIDOC policies 14.01 DOC, [Intake and Committing Process](#), 9.33 DOC, [Inmate Housing Assignments](#), and 18.30 DOC, [Receiving Screening and Mental Health Evaluation of New Commitments](#).
 2. During committing, when determining whether inmates are gender diverse or intersex, the following must be taken into consideration:
 - a. Inmate’s appearance does not match the sex on the inmate’s paperwork or identification.

- b. Inmate self-reports.

NOTE: An inmate can self-report their gender identity, or a change in their gender identity, at any time during their incarceration.

- c. Arresting/transporting agency, the prosecuting or defense attorney, a parent or guardian, or other credible source has alerted RIDOC staff to the inmate's gender diverse or intersex status.
 - d. Inmate's documented history, if known.
3. If the inmate's assigned sex at birth is unknown and/or cannot be determined because the inmate refuses to cooperate, the Committing Officer must notify his/her Superior Officer and the Superior Officer will immediately notify Health Care Services for an assigned sex at birth determination.
 4. Health Care Services staff shall schedule any inmate whose assigned sex at birth remains undetermined to meet with a clinician [Physician (MD)/Nurse Practitioner (NP)/Physician's Assistant (PA)] within twenty-four (24) hours of the day and time of the initial medical screening, excluding weekends, legal holidays and emergencies, for final assigned sex at birth determination. The clinician, or his/her designee, must communicate the results of the examination to the Warden/designee.
 5. Any additional questions asked by Health Care Services staff relating to an inmate's gender identity or gender expression must only be asked when necessary for ensuring proper classification, housing, and medical treatment, to protect the inmate's confidentiality and human dignity, and to avoid subjecting the inmate to abuse, humiliation, ridicule or assaults.
 6. Upon identification of gender diverse or intersex status, gender diverse and intersex inmates must be offered the [Statement of Search, Showers and Pronouns Preference Form](#) and the [Housing Request Form](#).
 - a. The [Statement of Search, Showers and Pronouns Preference Form](#) is used to identify and document the gender diverse or intersex inmate's preference for:

- (1) the sex of the staff that the inmate would prefer performs his/her frisk and strip searches and/or urine collection;
- (2) whether or not the inmate wants to shower separately from other inmates; and
- (3) the inmate's preferred pronouns.

NOTE: Staff presenting the [Statement of Search, Showers and Pronouns Preference Form](#) must indicate on the form if the inmate refuses to sign. Inmates who refuse to sign the form, will be subject to searches, showers and pronouns in accordance with Department/facility policies and procedures for the general population of the facility in which the inmate is housed.

- b. [The Housing Request Form](#) is used to identify and document the gender diverse or intersex inmate's preference to be housed according to their assigned sex at birth or not to be housed according to their assigned sex at birth.

NOTE: Staff presenting the [Housing Request Form](#) must indicate on the form if the inmate refuses to sign. Inmates who refuse to sign the form must appear before the Gender Diverse and Intersex Review Board.

B. Communication with Gender Diverse and Intersex Inmates

1. Consistent with RIDOC policy, staff must avoid language which is degrading, abusive, profane, or refers to an individual's race, religion, ethnicity, national origin, gender, gender identity, age, handicap or sexual orientation. Staff shall also avoid using a demeaning or derogatory manner when speaking to or about the inmate population. This prohibition also applies to communications via radio and telecommunications equipment, electronic and voice mail, the internet and all integrated computer networks. Please refer to the most recent version of RIDOC policy 3.14 DOC, [Staff Code of Ethics and Conduct](#) for more information.

2. Questions relating to an inmate's gender identity or gender expression must only be asked when necessary for ensuring proper classification, housing, and/or medical treatment, to protect the inmate's confidentiality and human dignity, and avoid subjecting the inmate to abuse, humiliation, ridicule or assaults.
 3. Use of a gender diverse or intersex inmate's preferred pronouns acknowledge identity and eliminates any perception that communication is intended to be demeaning or derogatory.
 4. Gender diverse and intersex inmates must be given the opportunity to select one (1) of the following pronouns by which they would like to be addressed on the [Statement of Search, Showers and Pronouns Preference Form](#):
 - (1) She/Ms.;
 - (2) He/Mr.; or
 - (3) They/Mx (pronounced 'mix').
 5. The inmate's preferred pronouns will be identified on the back of the inmate's ID Card. Once staff is informed by the inmate of their preference, staff must refer to the inmate using their chosen pronouns or use neutral language, "Inmate" and last name (i.e., Inmate Smith).
- C. Frisk and Strip Searches/Urine Collection
1. Other than Health Care Services staff, the facility shall not search or physically examine a gender diverse or intersex inmate for the sole purpose of observing the inmate's genitalia, determining the inmate's genital status, or as a form of harassment.
 2. The "M" or the "F" on the back of a gender diverse or intersex inmate's ID identifies the inmate's preference for the sex of the staff member that the inmate prefers to perform frisk and strip searches and/or urine collection.
- NOTE:** If the gender diverse or intersex inmate's preference is for staff of the opposite sex to conduct the inmate's frisk and strip searches and/or

urine collection, this request must be honored when there are willing and available staff.

3. If while conducting a frisk or strip search or urine collection, an officer discovers that an inmate who was previously considered to be cisgender is gender diverse or intersex, the officer shall immediately notify his/her respective supervisor and the inmate must be offered the [Statement of Search, Showers, and Pronouns Preference Form](#) and the [Housing Request Form](#).

D. Housing

1. Inmates committed to RIDOC are initially housed in male or female facilities based on their assigned sex at birth. However, housing decisions made thereafter for gender diverse and intersex inmates are not based solely on an inmate's assigned sex at birth and serious consideration is given to the inmate's own views with respect to their safety.
2. All recommendations to assign a gender diverse or intersex inmate to a facility that houses male or female inmates must be made on a case-by-case basis by the Gender Diverse and Intersex Review Board to the ADIO and seek to ensure the inmate's health and safety, while maintaining the safety and security of the facility.
 - a. Gender diverse and intersex inmates must not be placed in dedicated facilities, units, or wings based solely on such identification or status, unless such placement is in a dedicated facility, unit, or wing established in connection with a consent decree, legal settlement, or legal judgment for protecting such inmates.
 - b. Gender diverse and intersex inmates must not be placed in a restrictive housing setting solely due to such identification.
 - c. A gender diverse or intersex inmate's assigned sex at birth and/or genitalia must not be the sole factor in determining placement in a male or female facility.

3. Housing Requests – Initial Review
 - a. Inmate Requests
 - (1) If an inmate requests to be housed according to their assigned sex at birth, housing placement shall not be delayed. However, the inmate’s request is reviewed by the Gender Diverse and Intersex Review Board to consider whether that placement meets the needs of the inmate and the Department. The inmate will not appear before the Gender Diverse and Intersex Review Board unless requested to by the Board.
 - (2) If an inmate requests not to be housed according to their assigned sex at birth or refuses to sign the [Housing Request Form](#), the inmate may be placed in temporary housing while waiting to appear before the Gender Diverse and Intersex Review Board. Temporary housing, which affords the inmate privacy, is provided per the inmate’s request or if the facility has determined that it is necessary to ensure the inmate’s health and safety and/or maintain the safety and security of the facility.
 - b. The Gender Diverse and Intersex Review Board must meet within seventy-two (72) hours of a determination that an inmate is gender diverse or intersex, excluding weekends, legal holidays and emergencies. The Board will conduct a review and make a recommendation to the ADIO as to whether the inmate should be housed in a male or female facility, using and considering the following criteria:
 - (1) The [Housing Request Form](#);
 - (2) The inmate’s opinion of their own vulnerability in a male or female facility.
 - (a) If an inmate requests to be housed according to their assigned sex at birth and does not appear

before the Gender Diverse and Intersex Review Board, the inmate's opinion of their own vulnerability regarding remaining housed according to their assigned sex at birth will be considered low.

- (b) If an inmate requests not to be housed according to their assigned sex at birth or refuses to sign the [Housing Request Form](#), the inmate must be asked when they appear before the Gender Diverse and Intersex Review Board what the inmate's opinion of their own vulnerability is if housed in a male or female facility.
- (3) The [Statement of Search, Showers and Pronouns Preference Form](#);
- (4) Inmate's assigned sex at birth and current genitalia;
- (5) Inmate's views with respect to their own identity and whether those views have been consistent;
- (6) Information regarding whether the inmate has engaged in gender affirmation either in the community or while incarcerated:
 - (a) Medical transition;
 - (b) Legal transition; and/or
 - (c) Social transition.
- (7) Any relevant characteristics of the inmate, including physical stature, any tendency toward violence or predatory behavior, and any vulnerability to violence or predatory behavior;
- (8) The inmate's institutional history, including whether the inmate has presented any previous management

problems that affected the safety of other persons or the security of the facility and the inmate's discipline history;

- (9) The inmate's adjustment to incarceration;
 - (10) Other psychosocial factors that may contribute to either the inmate's resiliency or vulnerability;
 - (11) The inmate's privacy concerns;
 - (12) Recommendations from the inmate's mental health providers (if applicable);
 - (13) Recommendations from the inmate's medical providers (if applicable).
- c. The Gender Diverse and Intersex Review Board must attempt to reach consensus, ultimately relying on majority vote when needed, to recommend a gender diverse or intersex inmate's assignment to a male or female facility. The Gender Diverse and Intersex Review Board must document its vote and its reasons for recommending placement in a male or female facility on the [Housing Recommendation Form](#). The form is forwarded by the PREA Coordinator to the ADIO for review.
- (1) If the ADIO agrees with the recommendation of the Gender Diverse and Intersex Review Board, the ADIO's decision will be the final determination. If the ADIO's decision differs from the recommendation of the Gender Diverse and Intersex Review Board, the ADIO must justify their recommendation, in writing, to the Director who will make the final determination for placement in a male or female facility.
 - (2) The PREA Coordinator will be notified by the ADIO and/or the Director of the final determination using the [Housing Recommendation Form](#).

- (3) The PREA Coordinator must provide the original signed final [Housing Recommendation Form](#) to the Records & ID Unit via interdepartmental mail and a copy of the signed final [Housing Recommendation Form](#) to the Administrator of Classification Services via email. The Records & ID Unit will update the final determination into INFACIS. The [Housing Recommendation Form](#) documenting the final determination, assigning a gender diverse or intersex inmate to a male or female facility, must be maintained in the inmate's institutional record.
- (4) The PREA Coordinator must notify the inmate in writing of the final determination regarding the assignment to a male or female facility, and that the Warden/designee of the facility where the inmate is housed will conduct a review every six (6) months of the inmate's placement and programming assignments.

4. Housing Requests - Six (6) Month Review

Placement and programming assignments for gender diverse and intersex inmates must be reassessed by the Warden/designee of the facility where the inmate is housed at least every six (6) months or more frequently as necessary. Specific attention must be given to any threats to safety experienced by the inmate or any concerns with the inmate population. The Warden/designee must document these reviews on the [Six \(6\) Month Review Form](#) and provide the original completed [Six \(6\) Month Review Form](#) to the Records & ID Unit via interdepartmental mail and a copy of the [Six \(6\) Month Review Form](#) to the Administrator of Classification Services via email. The Records & ID Unit must update the review information into the Inmate Facility Tracking System (INFACIS). The completed [Six \(6\) Month Review Form](#) must be maintained in the inmate's institutional record.

- a. If the Warden/designee recommends a change in placement to a male or female facility, the Warden/designee must notify the PREA Coordinator via email and provide them with a copy of the completed [Six \(6\) Month Review Form](#). The Gender Diverse

and Intersex Review Board will meet within seventy-two (72) hours of the notification, excluding weekends, legal holidays and emergencies. The Board will conduct a review to consider the Warden's/designee's recommendation for a change in placement to a male or female facility, review all of the factors outlined in Section [IV.D.3.b.\(1\)-\(13\)](#), and meet with the inmate to determine what the inmate's current opinion is of their own vulnerability if housed in a male or female facility prior to making a recommendation for continuation of the current placement or changing the current placement to a male or female facility.

- b. The Gender Diverse and Intersex Review Board documents its reasons for recommending continuation of the current placement or changing the current placement to a male or female facility on the [Housing Recommendation Form](#). The PREA Coordinator forwards the completed form to the ADIO for review.
- c. If the ADIO agrees with the recommendation of the Gender Diverse and Intersex Review Board, the ADIO's decision will be the final determination. If the ADIO's decision differs from the recommendation of the Gender Diverse and Intersex Review Board, the ADIO must justify their recommendation, in writing, to the Director who will make the final determination for placement in a male or female facility.
- d. The PREA Coordinator is notified by the ADIO and/or the Director of the final determination using the [Housing Recommendation Form](#).
- e. The PREA Coordinator must provide the original signed final [Housing Recommendation Form](#) to the Records & ID Unit via interdepartmental mail and a copy of the form to the Administrator of Classification Services. The Records & ID Unit must update the final determination in INFACIS. The [Housing Recommendation Form](#) documenting the final determination, continuation of the current placement or changing the current

placement to a male or female facility, must be maintained in the inmate's institutional record.

- f. The PREA Coordinator notifies the inmate, in writing, of the final determination regarding the continuation of the current placement or changing the current placement to a male or female facility, and that the Warden/designee of the facility where the inmate is housed will conduct a review every six (6) months of the inmate's placement and programming assignments.

5. Recommitment

- a. If an inmate is released and recommitted within six (6) months of a review by the Gender Diverse and Intersex Review Board and makes the same request on the [Housing Request Form](#) as was previously considered, the inmate will receive a six (6) month review (calculated from the Board's meeting date) from the Warden/designee of the facility where the inmate is housed and will not be reviewed again by the Gender Diverse and Intersex Review Board.
- b. If an inmate is released and recommitted within six (6) months of a review by the Gender Diverse and Intersex Review Board and makes a request on the [Housing Request Form](#) that is different than what was previously considered, the Gender Diverse and Intersex Review Board will meet as described previously herein to consider the inmate's request and make a recommendation for placement in a male or female facility.
- c. If an inmate is released and recommitted more than six (6) months after a review by the Gender Diverse and Intersex Review Board, the Gender Diverse and Intersex Review Board will meet to consider the inmate's request as documented on the [Housing Request Form](#), regardless of whether the request is the same or different from the inmate's previous request.

E. Showers

Gender diverse and intersex inmates are given the opportunity to shower separately from other inmates. The inmate's preference as to whether or not the inmate wants the opportunity to shower separately from other inmates must be documented on the [Statement of Search, Showers and Pronouns Preference Form](#). All requests made by a gender diverse or intersex inmate to shower separately from other inmates will be accommodated.

F. Undergarments

Gender diverse and intersex inmates may request undergarment accommodations. Undergarments must not be worn in a manner that is disruptive or provocative.

G. Property Requests

Gender diverse and intersex inmates may request gender affirming property items. The Warden/designee may approve gender affirming property requests on a case-by-case basis.

H. Health Care Services

1. Health Care Services staff shall make referrals to Behavioral Health Care staff as appropriate.
2. Gender diverse and intersex inmates who have had or are receiving gender affirming health care, including, but not limited to undergoing hormone treatments, may experience adverse physical reactions and/or may require medical attention. Whenever a gender diverse or intersex inmate expresses a need for medical attention, staff must handle the situation with the same urgency and respect as that given to any other inmate's illness or injury.
3. Gender diverse and intersex inmates will receive all medical care, treatment and the maintenance of any ongoing treatment and/or procedures related to their medical transition utilizing the standard of care afforded to all RIDOC inmates.
4. If it is verified by Health Care Services staff that the inmate is receiving and currently taking hormonal medications under the supervision of a

medical doctor or a physician extender, the medications will be continued during the inmate's period of incarceration.

5. If an inmate wants to begin receiving hormonal medications or other gender affirming health care services, the inmate must be referred to Health Care Services.
6. Any inmate with a confirmed diagnosis of Gender Dysphoria must be provided with medical and mental health treatment based upon the inmate's needs and clinically appropriate recommendations from the Health Care Services and Behavioral Health Services providers.