

POLICY TITLE: TRANSGENDER, GENDER NONCONFORMING, AND INTERSEX CLIENTS		PAGE 1 OF 5
POLICY NUMBER: 9.5		
CHAPTER 9: SUPERVISION AND CASE MANAGEMENT		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS: See Section VIII
EFFECTIVE DATE: March 16, 2021	LATEST REVISION:	CHECK ONLY IF APA []

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in Title 34-A M.R.S.A. Sections 1403.

II. APPLICABILITY

Juvenile Community Corrections

III. POLICY

It is the policy of the Maine Department of Corrections to provide a safe, supportive, and discrimination-free environment that is affirming of every juvenile community corrections client’s gender identity, including transgender, gender nonconforming, and intersex clients.

IV. DEFINITIONS

1. Gender dysphoria – is as defined in the current Diagnostic and Statistical Manual (DSM) and refers to psychological distress that results from an incongruence between one’s sex assigned at birth and one’s gender identity.
2. Gender expression - the ways (e.g., name, clothing, hair style, body language, and mannerisms) in which a person embodies gender attributes, whether masculine, feminine, or androgynous.
3. Gender identity - a person’s sincerely held core belief regarding their gender, whether male, female, both, or neither.
4. Gender nonconforming person - a person whose gender expression falls outside what is generally considered typical for their sex assigned at birth.
5. Intersex person - a person who is born with variations in sexual features that fall outside traditional conceptions of male or female bodies, including variations in external genitalia.

6. Sexual orientation - the gender of persons to whom a person is sexually attracted, whether to persons of the same gender, a different gender, or more than one gender.
7. Staff - for purposes of this policy, Regional Correctional Administrator, Regional Correctional Manager, juvenile community corrections officer, or other Department employee who works in a juvenile community corrections region.
8. Transgender person - a person whose gender identity is different from what is their sex assigned at birth.

V. CONTENTS

- Procedure A: General
- Procedure B: Names and Pronoun Usage
- Procedure C: Pat Searches
- Procedure D: Discharge Planning

VI. ATTACHMENTS

None

VII. PROCEDURES

Procedure A: General

1. All juvenile community corrections staff, volunteers, and student interns who may have contact with a client shall receive training on this policy and issues regarding transgender, gender nonconforming, and intersex juvenile community corrections clients, including, but not limited to: how to communicate effectively and professionally with all clients, including transgender, gender nonconforming, and intersex clients; awareness of needs, risks, and challenges that transgender, gender nonconforming, and intersex client face; resources available to transgender, gender nonconforming, and intersex clients; and ways in which to provide a safe, supportive, and discrimination-free, harassment-free, and abuse-free environment that is affirming of every client’s gender identity.
2. Under no circumstances may any staff, volunteer, or student intern compel a client to disclose information about the client’s gender identity, gender expression, sexual orientation, or sexual features or threaten a client with a violation of supervision conditions or other negative consequences for failure to disclose such information.
3. Under no circumstances may any staff, volunteer, or student intern attempt to change a client’s gender identity, gender expression, or sexual orientation. Under no circumstances may any staff, volunteer, or student intern prohibit or punish or impose other negative consequences due to behavior that is deemed to be gender non-conforming.
4. A transgender client’s gender identity or intersex client’s intersex status is mental health and/or medical information and may be disclosed only to the extent permitted by law and Department Policy (JCC) 8.1, Confidentiality of Juvenile Community Corrections Client Information and any other applicable policies. Unless the client gives consent, a transgender client’s gender identity or intersex client’s intersex

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.5 (JCC) Transgender, Gender Nonconforming, and Intersex Clients	9. Supervision and Case Management	Page 2 of 5 3/16/2021

status shall not be disclosed to the client's parent, guardian in the community, or other family member.

5. The Regional Correctional Administrator, or designee, shall ensure clients have access to contact information for community support groups for transgender, gender nonconforming, and intersex juveniles.
6. Discrimination against or harassment of a transgender, gender nonconforming, or intersex client by staff, volunteers, or student interns is not tolerated and shall be addressed as set forth in applicable Department policies, including but not limited to, Policies 1.6, Prohibition on Discrimination, 6.11.3, Sexual Misconduct (PREA & Maine Statutes) Reporting and Investigation, and 6.11.4, Sexual Misconduct (PREA & Maine Statutes) Administrative Sanctions and Grievances.
7. Physical, sexual, verbal, emotional, or other abuse of a transgender, gender nonconforming, or intersex client is not tolerated and shall be addressed as set forth in Department Policies 7.1, Criminal Investigations and/or 7.3, Administrative and Personnel Complaint Investigations, as applicable.
8. Any transgender, gender nonconforming, or intersex client may use the grievance process set out in Department Policy (JCC) 29.1, Community Corrections Client Grievance Process, General, to file a grievance about discrimination, harassment, or abuse. A client may also make a complaint in writing or verbally to any staff.
9. The Regional Correctional Administrator, or designee, shall assess, on at least an annual basis, the juvenile community corrections climate with respect to transgender, gender nonconforming, and intersex clients by reviewing grievances filed by and speaking with transgender, gender nonconforming, and intersex clients; conducting anonymous surveys of clients asking them for their observations on the treatment of transgender, gender nonconforming, and intersex clients; and holding discussions with staff, volunteers, student interns, and clients to gain insight into their experiences, etc.

Procedure B: Name and Pronoun Usage

1. When any juvenile community corrections staff, volunteer, or student intern is addressing a client by first name, the person shall address a transgender, gender nonconforming, or intersex client by the client's preferred first name, except as set out below.
2. A preferred first name shall not be used if the Regional Correctional Administrator or designee, determines it indicates affiliation with a gang or terrorist group, has vulgar, obscene, or repugnant connotations.
3. When any staff, volunteer, or student intern uses a pronoun in reference to a transgender, gender nonconforming, or an intersex client, the person shall use a pronoun that reflects the client's preference, except as set out below.
4. Unless the client gives consent, a preferred first name or pronoun that would reveal to the client's parent, guardian in the community, or other family member that the client is transgender, gender nonconforming, or intersex shall not be used in the

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.5 (JCC) Transgender, Gender Nonconforming, and Intersex Clients	9. Supervision and Case Management	Page 3 of 5 3/16/2021

presence of or when communicating with such a person nor shall it otherwise be revealed to such a person that the client is transgender, gender nonconforming, or intersex.

5. A preferred first name or pronoun shall not be used nor shall it otherwise be revealed that the client is transgender, gender nonconforming, or intersex in other circumstances if the client indicates that would create an unsafe situation and it is not necessary for that information to be revealed in order to carry out the functions of the Department.
6. If the client is one who has been admitted to a juvenile facility, the client's first and last name as it appears on the juvenile court order under which the juvenile was admitted to the facility shall be used for all Department records, including, but not limited to, CORIS notes, except as set out below.
7. If the client is one who has not been admitted to a juvenile facility, the client's first and last name as it appears on the juvenile court order under which the juvenile was placed under the supervision of juvenile community corrections shall be used for all Department records, including, but not limited to, CORIS notes, except as set out below.
8. If different from the first name as it appears on that order, designated staff shall enter the client's preferred first name on the alias screen in CORIS, and it shall be treated like any other alias for recordkeeping purposes.
9. If a client obtains a first and/or last legal name change through a court, upon receipt of an attested court order, designated staff shall enter the changed name on the alias screen in CORIS, and it shall be treated like any other alias for recordkeeping purposes. In addition, designated staff shall forward the legal name change information to the State Bureau of Identification.
10. A client's changed legal name shall be used when addressing the client except that a changed legal name shall not be used if the Regional Correctional Administrator, or designee, determines it indicates affiliation with a gang or terrorist group, has vulgar, obscene, or repugnant connotations.
11. In any lengthy documentation relating to the client, it is permissible to use the client's preferred first name or changed legal name, as long as the client's name as it appears on the juvenile court order under which the client was admitted to the facility or placed under the supervision of juvenile community corrections, as applicable, is used to identify the client at the beginning of the documentation.
12. Under no circumstances may the client's first and last name as it appears on the applicable juvenile court order be deleted from any Department or other records.

Procedure C: Pat Searches, Urine Collection, and Transports

1. If a juvenile community corrections client is transgender or intersex. the Regional Correctional Administrator, or designee, shall determine, based upon information available at the time, including, but not limited to, the expressed preference of the client, the gender of the juvenile community corrections staff who will conduct any pat

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.5 (JCC) Transgender, Gender Nonconforming, and Intersex Clients	9. Supervision and Case Management	Page 4 of 5 3/16/2021

searches and shall document that determination in CORIS. If a client is gender nonconforming but is not transgender or intersex, the pat search shall be conducted by staff of the same gender as the client's gender assigned at birth.

2. Once the determination is made as to the gender of the staff who will conduct pat searches of a transgender or intersex client, then, except in an emergency, only staff of that gender shall conduct any pat search. In addition to the staff conducting the search, except in an emergency, at least one other staff of the same gender as the staff conducting the search shall observe the search.
3. Staff shall treat the client with professionalism and respect so as to minimize embarrassment and indignity during a search.
4. Under no circumstances may a search ever be conducted for the purpose of determining a client's genitalia or other anatomical features.
5. All searches of a transgender or intersex client shall be documented in CORIS, to include, but not be limited to, the type of search, the reason for the search, the gender of the staff conducting the search and, if applicable, the gender of the staff observing the search.
6. Once the determination is made as to the gender of the staff who will conduct pat searches of a transgender or intersex client, then only staff of that gender shall directly observe the production of a urine specimen for drug testing purposes.
7. Once the determination is made as to the gender of the staff who will conduct pat searches of a transgender or intersex client, then, for an in-custody transport, at least one of the transporters shall be of that gender.

Procedure D: Release and Discharge Planning for Juvenile Facility Residents Who will be Supervised in the Community

1. All juvenile community corrections staff, volunteers, and student interns shall be familiar with community resources that provide services to transgender, gender nonconforming, and intersex youth.
2. If the unit treatment team for a juvenile facility resident who will be supervised in the community has included in the resident's discharge plan referrals to community resources that provide services to transgender, gender nonconforming, and intersex youth, the juvenile community corrections officer, in coordination with the unit social worker, shall take appropriate steps to facilitate communication between the client and these community resources.

VIII. PROFESSIONAL STANDARDS

None

POLICY NUMBER/TITLE	CHAPTER NUMBER/TITLE	PAGE NUMBER
9.5 (JCC) Transgender, Gender Nonconforming, and Intersex Clients	9. Supervision and Case Management	Page 5 of 5 3/16/2021