



NSA/CSS POLICY 1-78 GENDER IDENTITY, EXPRESSION, AND AFFIRMATION AT NSA/CSS



DATE: 25 May 2021 (See [Document History](#).)

OFFICE OF PRIMARY INTEREST: Diversity, Equality, and Inclusion (DEI, D6)

RELEASABILITY: This policy has been approved for public release. The official document is available on the Office of Policy website (“go policy”).

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ISSUED: 25 May 2021

PURPOSE AND SCOPE

1. This document implements the requirement for NSA/CSS to provide equal employment opportunity (EEO) for [transgender](#) individuals and assigns responsibilities to effect implementation of the policy regarding [gender identity](#), [gender expression](#), and [gender affirmation](#). If there is a conflict between this policy and NSA/CSS Policy 1-37, “Equal Employment Opportunity” ([Reference a](#)), NSA/CSS Policy 4-3, “Access to and Disclosure of Demographic Data” ([Reference b](#)), or NSA/CSS Policy 4-40, “Anti-Harassment Program” ([Reference c](#)), the provisions of those policies will take precedence.

2. This policy applies to all civilian personnel throughout the NSA/CSS Enterprise, including NSA/CSS civilian [employees](#) who are supervised by military members. Certain provisions apply to NSA/CSS [affiliates](#), as specifically indicated. Military and contractor personnel should follow the EEO procedures of their respective military Service or corporate/company employer ([Reference a](#)).

POLICY

3. NSA/CSS shall maintain a work environment free from discrimination and harassment based on sex, including transgender status, gender identity, gender expression, and [perceived gender](#), in accordance with law, EEO regulations, Department of Defense policy, NSA/CSS policy, the Privacy Act of 1974 ([Reference d](#)), Executive Order 11478, “Equal Employment Opportunity in the Federal government” ([Reference e](#)), Executive Order 13988, “Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation” ([Reference f](#)), and the NSA/CSS Civil Liberties and Privacy Program. In accordance with NSA/CSS Personnel Management Manual chapter 366, “Personal Conduct” ([Reference g](#)), all NSA/CSS affiliates are expected to behave in a civil and respectful manner,

including using the [primary name](#), pronouns, honorific, and gendered language designated by every individual in both written and verbal communication. Intentional [misgendering](#) shall not be permitted or tolerated.

4. NSA/CSS shall promote a safe and inclusive workspace and shall not use transgender status, gender identity, gender expression, or perceived gender as the basis for denying access to NSA/CSS-protected information and/or facilities.

5. All personnel information, including gender identity or transgender status, shall be treated with as much sensitivity and confidentiality as any other private or highly personal life experience and protected in accordance with established NSA/CSS procedures governing privacy information while maintaining accurate personnel and security records, as appropriate.

6. NSA/CSS shall provide transgender and gender identity–awareness training to its workforce in order to promote an inclusive work environment for transgender personnel and to facilitate in the workplace gender-affirmation processes when appropriate.

7. From the issue date of this policy, NSA/CSS shall use [gender-inclusive language](#) in its official communications and other materials and shall incorporate its use when updating existing policies, standard operating procedures, technical documents, and other materials as they are reviewed, revised, or reissued.

8. NSA/CSS shall update its affiliates' records and information technology (IT) system identifiers to reflect official changes to legal names.

9. NSA/CSS shall respect the work-related [gender affirmation–process plans](#) of all affiliates, including changes to their primary name, pronouns, and honorific, to reflect their gender identity.

10. No transgender civilian employee shall be required to change their organization or position at any time solely on the basis of their gender identity, expression, or affirmation process. NSA/CSS shall not direct the change of any contractor affiliate's organization or position at any time solely on the basis of their gender identity, expression, or affirmation process. Contractor personnel shall follow the guidance and direction of their non-NSA/CSS employer.

11. Affiliates may access the NSA/CSS restrooms, locker rooms, and other gender-based facilities that most closely correspond to their gender identity, except to the extent that this conflicts with guidance and direction issued by their military Service. They shall not be required to use a facility located at an unreasonable distance from their workstations ([References h and i](#)). Further, to the extent possible in current buildings and in the planning of NSA/CSS-owned and -leased future buildings, NSA/CSS shall make gender-neutral or single-user facilities available for use.

12. Consistent with applicable law and policies, NSA/CSS shall allow civilian employees to request sick leave for medical, and annual leave for non-medical, aspects of the gender affirmation process.

13. Consistent with applicable law and policies, NSA/CSS shall not confer or deny benefits based on gender.

14. Any NSA/CSS guidance regarding attire or physical appearance shall be gender nonspecific.¹ Organizations shall update their guidance accordingly within 90 days of the issuance of this policy.

RESPONSIBILITIES

Chief, Human Resources (HR, A3)

15. The Chief, HR (A3) shall:

a. Ensure that HR personnel receive appropriate training on NSA/CSS's policies and processes related to transgender individuals and are able to:

1) Act as a liaison between employees and NSA/CSS organizations responsible for changing official personnel records that contain legal names, gender markers, and honorifics; and

2) Follow Office of Personnel Management (OPM) guidance regarding the process to change official personnel records to reflect any change to an employee's name, honorific, and/or gender marker ([Reference j](#));

b. Create and maintain a complete list of Agency records, documents, forms, contact information, and offices where an affiliate's primary name, legal name, and gender marker may be prospectively changed during or following a gender-affirmation process, as applicable, including personnel records, healthcare records, and financial records;

c. Update HR systems and forms to reflect the employee's legal name and gender, consistent with chapter 4 of OPM's Guide to Personnel Recordkeeping ([Reference j](#)), within the same amount of time that would be required for similar records changes; and

d. Update HR systems and forms to reflect the employee's primary name, pronouns, and honorific, consistent with the Office of the Director of National Intelligence's "Key Elements to Include in Policies Covering Employment of Transgender Individuals in the Intelligence Community" ([Reference h](#)).

Diversity, Equality, and Inclusion (DEI, D6)

16. DEI (D6) shall:

¹ Examples of appropriate gender-nonspecific guidance include "formal attire," "two-piece matched suit required," "no athletic wear is permitted," and "closed-toe, flat-soled shoes are recommended."

a. Collaborate with the DEI Pride Employee Resource Group (D63), Workforce Development (A1), and the National Cryptologic School (NCS, A2) to create and maintain transgender-related training materials, documents, resources, and responses to frequently asked process questions;

b. Advise Agency policy and workforce training owners and other offices of primary interest on the implementation of this policy and the use and importance of gender-inclusive language in all official communications, including policies, standard operating procedures, technical documents, and other materials; and

c. Establish a Transgender Resource Coordinator (TRC) who shall:

1) Be the primary NSA/CSS resource for transgender-related questions, processes, and policy in the workplace, reporting directly to the Chief, D6 on gender-identity issues and identified on the D6 website; and

2) Be a primary resource for assisting supervisors and civilian employees in navigating gender affirmation process-related workplace issues and personnel actions.

National Cryptologic School (NCS, A2)

17. NCS (A2) shall:

a. Provide periodic DEI (D6)-developed transgender and gender identity awareness-training to employees and affiliates, as appropriate;

b. Incorporate transgender and gender identity-awareness training into appropriate currently existing management training (including harassment prevention and responsibilities of board members); and

c. Collaborate with DEI (D6) and Workforce Development (A2) to incorporate transgender and gender identity-awareness training into a currently existing mandatory annual training module for employees and affiliates, as appropriate.

Workforce Support Activities (WSA, A)

18. WSA (A) shall:

a. Create and maintain a consolidated process for changing Agency records and systems, including unique requirements associated with changes to primary and legal names, pronouns, and gender markers; and

b. Collaborate with DEI (D6) and the NCS (A2) to incorporate transgender and gender identity-awareness training into currently existing training for new employees.

Audit, Accounting, and Financial Services

19. Audit, Accounting, and Financial Services shall update an employee's legal name, honorific, and other related information contained in NSA/CSS financial records and systems in accordance with this policy.

Security and Counterintelligence (S&CI, A5)

20. S&CI (A5) shall:

a. When conducting background investigations, use the pronouns, honorific, and legal name and gender for the relevant timeframe(s);

b. When conducting source interviews, use the appropriate pronouns, honorific, primary name, and gender provided by the individual for the relevant timeframe(s);

c. Change security records to prospectively reflect legal-name and gender-marker changes within 60 calendar days of notification of legal change of name and gender;

d. Incorporate gender identity–awareness training provided by DEI (D6) into Special Agent Training to raise awareness of security's role in conducting background investigations, which includes protecting the Intelligence Community's workforce and applicants by gathering and protecting information consistent with applicable law and being appropriately sensitive to gender-identity issues; and

e. In statements of work for contracts involving security officials performing background investigations, polygraphs, and/or security interviews, include the requirement to use the pronouns, honorific, legal name, and gender for the relevant timeframe(s); when conducting source interviews, use the appropriate pronouns, honorific, primary name and gender provided by the individual for the relevant timeframe(s).

Installations and Logistics (I&L, A4)

21. I&L (A4) shall, for NSA/CSS-controlled facilities:

a. Designate all single-user restrooms and locker rooms as facilities for all genders;

b. When possible, plan new buildings with gender-neutral restrooms, showers, and locker rooms that are close to or co-located with gender-specific facilities; and

c. When feasible, provide reasonable access to an existing private room or the use of a curtain in a locker room for any civilian employee who requests this access and provide access in a way that allows the individual to keep confidential the reason for the request for increased privacy (e.g., an individual's transgender status).

Supervisors and Managers of Organizations with Transgender Employees

22. Supervisors and managers of organizations with transgender employees shall:

a. Cooperate and coordinate with each transgender civilian employee and the TRC, as appropriate, to develop and implement in the workplace a gender affirmation–process plan that respects the needs of the transitioning employee, the employee’s coworkers, and the Agency; and

b. Engage DEI’s (D6’s) Office of Reasonable Accommodations and Accessibility (D64) and/or the TRC for additional guidance on supporting gender-affirmation processes in the workplace.

Contracting Officer Representatives (CORs) of Transgender Affiliates

23. CORs for contracts with transgender contractor affiliates shall be the points of contact for employers of transgender affiliates to discuss proposed gender affirmation–process plans. CORs shall coordinate with the pertinent Contracting Officer as needed. CORs may consult with the TRC as needed.

Capabilities Directorate (Y)

24. The Capabilities Directorate (Y) shall whenever feasible and reasonable provide IT systems that enable the use of primary names and review new and existing IT requirements to incorporate use of primary names, as appropriate.

All NSA/CSS Civilian Employees

25. All NSA/CSS civilian employees shall initiate desired changes, provide appropriate documentation, and be responsive to follow-up requests for information when coordinating gender affirmation–process plans and records changes, including name, gender marker, honorific, and title change.

REFERENCES

- a. NSA/CSS Policy 1-37, “Equal Employment Opportunity,” dated 30 December 2020
- b. NSA/CSS Policy 4-3, “Access to and Disclosure of Demographic Data,” dated 24 January 2020
- c. NSA/CSS Policy 4-40, “Anti-Harassment Program,” dated 27 July 2020
- d. 5 United States Code §552a, “Privacy Act”
- e. Executive Order 11478, “Equal Employment Opportunity in the Federal government,” dated 8 August 1969, as amended

- f. Executive Order 13988, “Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation,” dated 20 January 2021
- g. NSA/CSS Personnel Management Manual chapter 366, “Personal Conduct,” dated 2 February 2014
- h. Office of the Director of National Intelligence, “Key Elements to Include in Policies Covering Employment of Transgender Individuals in the Intelligence Community”
- i. OSHA 3795, “A Guide to Restroom Access for Transgender Workers,” dated 2015
- j. Office of Personnel Management, The Guide to Personnel Recordkeeping, Chapter 4-6, “How to Reconstruct a Personnel Folder Due to a Change in Gender Identity,” dated 1 June 2011

GLOSSARY

affiliate—any individual who is employed by, assigned to, or detailed to NSA/CSS, including contractor personnel, and all individuals acting on behalf of NSA/CSS worldwide (Source: NSA/CSS Policy Glossary)

applicant—an individual who applies for a position by following NSA/CSS standard application procedures (Source: NSA/CSS Policy Glossary)

employee—an individual who is currently employed as a civilian at the Agency (Source: NSA/CSS Policy Glossary)

gender affirmation—The gender-affirmation process is used by those who desire to more closely align their internal knowledge of gender with its outward appearance. Some people socially transition and might begin dressing, using names and pronouns, and/or being socially recognized as another gender. Others undergo physical transitions in which they modify their bodies through medical interventions. (Derived from: <https://www.hrc.org/resources/sexual-orientation-and-gender-identity-terminology-and-definitions>)

gender affirmation–process plan—A gender affirmation–process plan is an optional plan that contains documented steps for an individual’s gender-affirmation process that may contain such steps as identifying a date of social transition, organizational training, and changing pronouns, honorific, and name. This is a living document that can change as the transitioning individual’s needs change.

gender expression—the way in which an individual expresses gender identity, which may or may not conform to social norms associated with a particular gender ([Reference h](#))

gender identity—an individual’s internal sense of being male or female or an identity other than the traditional definition of male or female ([Reference h](#))

gender-inclusive language—Gender-inclusive language is speaking and writing in a way that does not discriminate against a particular sex, social gender, or gender identity and that does not

perpetuate gender stereotypes. (Source: <https://www.un.org/en/gender-inclusive-language/>) Such words and phrases as “spouse,” “employee,” and “distinguished guests,” instead of “husband” or “wife,” “men” or “women,” or “ladies and gentlemen,” are examples of gender-inclusive language.

misgender—to identify the gender of a person (e.g., a transsexual or transgender person) incorrectly (as by using an incorrect label or pronoun) (Source: <https://www.merriam-webster.com/dictionary/misgender>)

perceived gender—the gender that people use to identify an individual, based on name, interests, clothing, and other external characteristics, frequently determining how an individual is treated, based on gender norms and stereotypes

primary name—the name that an individual uses day to day, which may or may not be the same as the individual’s legal name

transgender—Transgender individuals are people with a gender identity that is different from the sex that was assigned to them at birth. People who are women but were assigned the male sex at birth may refer to themselves as transgender women or women. Likewise, people who are men but were assigned the female sex at birth may refer to themselves as transgender men or men. People who have a gender identity other than the traditional concept of male or female may identify themselves as transgender, non-binary, or gender non-conforming or may use another term. Finally, some individuals who fit the definition of transgender do not identify themselves as such. ([Reference h](#))

DOCUMENT HISTORY

Date	Approved by	Description
25 May 2021	Paul M. Nakasone, General, U.S. Army; Director, NSA/Chief, CSS	Policy issuance; this policy supersedes Policy Memorandum 2020-02, “Access to Gender-Based Facilities,” dated 10 March 2020