

SUPERINTENDENT INSTRUCTION 2023-10

United States Merchant Marine Academy
Kings Point, New York

13 October 2023

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Subject: GENDER TRANSITION POLICY

References:

- (a) Executive Order 13160, *Nondiscrimination on the basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs*, June 23, 2000
- (b) Executive Order 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation*, January 20, 2021
- (c) 46 C.F.R. §§ 310.50 through 310.67, *Admission and Training of Midshipmen at the United States Merchant Marine Academy*
- (d) National Collegiate Athletics Association (NCAA), *Transgender Student-Athlete Participation Policy*
- (e) Superintendent Instruction (SI) 2018-07, *Midshipman Regulations*
- (f) Commandant's Instruction (CI) 2021-02, *USMMA Midshipman Uniform Regulations*
- (g) Department of Defense Instruction (DoDI) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction into the Military Services*
- (h) Department of Defense Instruction (DoDI) 1300.28, *In-Service Transition for Transgender Service Members*

1. **Purpose:** To establish policies and procedures pertaining to the admission and education of transgender individuals and, as appropriate, to transitioning while enrolled at the Academy so as to remove barriers for those with a diagnosis of Gender Dysphoria or who identify as transgender.
2. **Background:** On June 23, 2000, President Clinton issued Executive Order 13160 (reference (a)), which provided that “no individual, on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination in, a Federally conducted education or training program or activity.” On January 20, 2021, President Biden issued Executive Order 13988 (reference (b)), which directed all Federal agencies to review their policies, procedures, and programs to ensure compliance with the stated policy of preventing and combating discrimination on the basis of gender identity or sexual orientation.

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3. Applicability: This policy applies to all Plebe Candidates, Plebes and Midshipmen (collectively, students) and all Applicants.
4. Policy:
 - a. All transgender persons who wish to study at the USMMA, and can meet its standards, shall be able to do so openly and free from discrimination. USMMA remains committed to treating all persons with dignity and respect. No person, on the basis of gender identity, will be denied enrollment, involuntarily separated or discharged, denied reenrollment or continuation of enrollment, or subjected to adverse action or mistreatment. All students are to feel welcome, safe and comfortable in a supportive setting within their living and learning environments.
 - b. No person will be denied admission to the Academy on the basis of gender identity. As such, and in accordance with reference (c) admission decisions will be based on the applicant's competitiveness within the applicant cohort, and subject to the applicant meeting the Academy's general eligibility, scholastic, and physical requirements. Except where a provision of policy has granted an exemption, transgender Applicants must be subject to the same standards for enrollment as all other persons. When a standard, requirement, or policy depends on whether the individual is male or female or intersex (e.g. medical fitness, physical fitness and body fat standards, berthing/ bathroom/ shower facilities and uniform and grooming standards, etc.), all students will be subject to the standard, requirement, or policy associated with their sex as annotated in their medical record.
 - c. Students must be considered as, and treated in accordance with, the gender recorded in their medical record, unless the student has an approved Exception to Policy (ETP) granted by the Superintendent as part of a Gender Transition Request (GTR). Once a student changes the gender marker in their medical record, no ETPs will be granted to conform to the previous gender.
 - d. USMMA athletics strives to guide, govern and support fair and equitable athletic competition and promote athlete well-being among its students. All students will have equal opportunity to participate in sports, regardless of gender identity, in accordance with reference (d), the current National Collegiate Athletic Association (NCAA) student-athlete transgender policy.
5. Definitions:
 - a. Accessed Gender: The gender recognized by the Academy at accession and reflected in each student's medical records.

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- b. Cross-Sex Hormone Therapy: The use of feminizing hormones in an individual assigned male at birth or the use of masculinizing hormones in an individual assigned female at birth. A common medical treatment associated with gender transition.
- c. Cisgender: Individuals whose current gender identity is the same as the sex they were assigned at birth.
- d. Exception to Policy (ETP): A formal request that a student may make to the Superintendent or their designee as part of a gender transition to have the standards of their self-identified gender applied instead of their accessed gender. The approved ETP is applicable prior to changing the gender marker in their medical records.
- e. Gender: The cultural roles, behaviors, activities, and attributes expected of people based on their sex.
- f. Gender Dysphoria: A medically diagnosed condition that includes a marked incongruence between one's experienced or expressed gender and assigned gender of at least six months in duration, as manifested by conditions specified in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders: Fifth Edition (DSM-5), which is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- g. Gender Identity: A member's internal or personal sense of gender, which may or may not match the members biological sex.
- h. Gender Marker: Academy's data element that identifies a student's gender according to medical records.
- i. Gender Transition: A form of treatment for the medical condition of Gender Dysphoria that may involve any one, or a combination of the following:
 - 1) Social Transition, also known as "real life experience," to allow a student to live and work in their self-identified gender without any cross-sex hormone treatment or surgery; may also include a legal change of gender, including gender on a passport or birth certificate, effected through a court order;
 - 2) Medical transition to align secondary sex characteristics with the student's self-identified gender using cross-sex hormone therapy or surgical and cosmetic procedures; and,
 - 3) Surgical transition, also known as sex reassignment surgery, to make the physical body, both primary and secondary sex characteristics, resemble as closely as possible to the student's self-identified gender.

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- j. Intersex: Individual having both biological male and female sex characteristics, which includes genitalia, hormones, chromosomes and reproductive organs.
- k. Medical Treatment Plan (MTP): A medical plan that is prepared and endorsed by a medical provider in consultation with a Medical Multidisciplinary Team (MMDT) describing medical care specific to treating a student's gender dysphoria.
- l. Real Life Experience (RLE): The phase in the gender transition process during which the student begins living socially in the gender role consistent with their self-identified gender. RLE may or may not be preceded by the commencement of cross-sex hormone therapy, depending on the medical treatment associated with the student's gender transition. The RLE phase is also a necessary precursor to certain medical procedures, including gender transition surgery. RLE generally encompasses dressing in the self-identified gender, as well as using self-identified gender berthing, bathroom and shower facilities.
- m. Self-identified Gender: The gender with which an individual identifies.
- n. Sex: An individual biological status as male, female, or intersex, sex is assigned at birth and associated with physical attributes, such as anatomy and chromosomes.
- o. Stable in Self-Identified Gender: The absence of clinically significant distress or impairment in social, occupational, or other important areas of functioning associated with a marked incongruence between the student's experienced or expressed gender and biological sex. Continuing medical care including, but not limited to, cross-sex hormone therapy may be required to maintain a state of stability.
- p. Transgender: Individuals whose current gender identity differs from the sex they were assigned at birth.
- q. Transgender Student: A student who has received a medical diagnosis indicating that gender transition is medically necessary, including any student who intends to begin transition, is undergoing transition, or has completed transition and is stable in the self-identified gender.
- r. Transition: Period of time when individual changes from the gender role associated with their sex assigned at birth to a different gender role. For many people, this involves learning how to live socially in another gender role. For others, this means finding a gender role and expression that are most comfortable for them. Transition may or may not include feminization or masculinization of the body through cross-sex hormone therapy or other medical procedures. The nature and duration of transition are variable and individualized.

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- s. Transition Plan: A plan that complements a medical treatment plan and addresses social and emotional transition.
6. Procedures:
- a. Admissions:
 - 1) Should an applicant that is otherwise competitive for appointment, or selected for a Secretarial appointment, be determined to not meet Department of Defense (DoD) medical standards for appointment by the Department of Defense Medical Examination Review Board (DoDMERB), the Admissions Office will initiate the medical waiver process per the following:
 - a) The Director of Admissions will request a recommendation for medical waiver through the Chief Bureau of Medicine and Surgery (BUMED).
 - b) The applicant will be notified of the waiver request and advised of any additional medical information requested by BUMED in support of a waiver determination.
 - c) A medical waiver determination will be made upon receipt of the recommendation from BUMED. Waivers will not be granted for medical conditions which would prevent commissioning in at least a restricted status in the U.S. Navy Reserve. The Superintendent is the final deciding authority for medical waivers.
 - d) The applicant will be notified of the final medical waiver determination via official correspondence.
 - 2) Medical waivers will be based on U.S. Navy guidelines and regulations for waiver consideration for admission to USMMA and the physical requirements consistent with commissioning as a reserve officer in the U.S. Navy in a restricted line program.
 - b. Regimental Life:
 - 1) Berthing/Bathroom/Showers:
 - a) Students will use those berthing, head/restroom, and shower facilities associated with the student's gender marker in the Academy's medical records unless the student has an approved ETP specific to the use of alternate facilities.
 - b) The Commandant's Office will assign students to rooms in accordance with the assigned gender annotated in their Academy medical records or an approved ETP. If requested by the transgender student, the Deputy Commandant may

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reassign a transgender student, as with any other student, to another company if it is in the best interest of the student, good order and discipline, and company operations. After gender transition is complete and a transgender student's gender has been changed in their Academy medical records, the transgender student will be assigned to a room corresponding to their transitioned gender.

- 2) Drug Testing (Urinalysis): A transgender student may not request a specific observer for the purposes of performing a drug test in accordance with the Midshipman Regulations (reference (e)), and must follow any policy requirements for the student's assigned gender annotated in their Academy medical records. However, the transgender student may request an ETP for a specific gender marker of an observing member of the Commandant's staff, when applicable.

3) Clothing:

- a) Gender Specific Uniforms: In accordance with reference (f), students must wear gender-specific uniforms for the assigned gender annotated in their Academy medical records unless granted an ETP. An ETP does not need to cover 100% of uniform options or requirements. After gender transition is complete and a transgender student's gender has been changed in their Academy medical records, the Academy will issue uniforms to the transgender student corresponding to their transitioned gender.
- b) Civilian Attire: The Academy does not officially recognize any distinction between male or female civilian clothing, but recognizes that certain clothes are associated with one gender over another. Students, faculty and staff must be aware and considerate of the fact that people considering transitioning between genders often experiment with clothing before receiving medical diagnosis or treatment.
- c) No punitive action may be taken based solely on clothing that has an associated civilian gender unless Reference (f) prohibits such clothing.
- d) When authorized civilian attire, students may wear any clothing that meets civilian clothing standards in Reference (f).
- e) Students may have one or both genders' civilian clothing in their barracks rooms.

c. Athletics:

- 1) For all intramural or other non-NCAA events, students must adhere to activities designated to their current gender marker annotated in their medical record unless the student has an approved ETP.
- 2) Transgender students with an approved athletics-related ETP, and if eligible in accordance with current NCAA transgender policies

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(<https://www.ncaa.org/sports/2022/1/27/transgender-participation-policy.aspx>), may compete on gender-specific teams under NCAA authorization.

- 3) Transgender students must adhere to sport/gender specific uniforms, unless granted an ETP.
- 4) Each student must meet the standards of their gender marker annotated in their medical record for the Physical Readiness Test (PRT) unless the student has an approved ETP.

d. Transition Process:

- 1) Policies will be applied to students with a diagnosis indicating that gender transition is medically necessary in the same manner, and to the same extent, as to students with other medical conditions that impact a student's ability to matriculate, graduate and fulfill their service obligation. The Office of Health Services (OHS) will work with transgender students using both an onsite support process in conjunction with offsite support for issues that are beyond the scope of offered medical and mental health services at the Academy.
- 2) A medical diagnosis is a fundamental first step in a transition process. When a medical diagnosis of gender dysphoria indicates Gender Transition is necessary, the student's medical provider, OHS and the Commandant will jointly develop a Transition Plan.
- 3) A diagnosis of Gender Dysphoria involves a multi-visit, comprehensive medical review conducted at an appropriate medical treatment facility. Transition will not be initiated simply based on a declaration of Gender Identity by a student. The student must have a medical diagnosis and medical treatment plan on record as developed by their medical provider in conjunction with the Bureau of Medicine & Surgery (BUMED) Regional Transgender Care Team, and the Commandant.
- 4) References (g) and (h) detail policies and procedures in recognition of the coordination for Armed Forces commissioning for gender transition. As a general rule, students shall be stable in their transitioned gender no less than 18 months prior to commissioning into Armed Forces. This timeline nominally will require the gender transition process to begin for a student in their Plebe (4/C) or Sophomore (3/C) year at the Academy, and will require careful planning, counseling, and advisement of each individual on a case-by case basis. Students who cannot meet the timelines for commissioning may:

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- a) Request a medical waiver from service obligation requirements, using the same waiver process as all other potentially medically disqualifying conditions; or
 - b) Request a Medical Leave of Absence (MLOA), in accordance with Academy policy;
or
 - c) Be involuntarily disenrolled based on a medical condition that impairs the student's ability to complete the Academy's course of instruction or otherwise meet the requirements set forth in Reference (c).
- 5) Following the timelines and milestones required by BUMED for gender transition medical management, OHS will provide or coordinate clinical care including the following health services:
- a) Health and sexuality education
 - b) HIV prevention (PrEP) and HIV treatment
 - c) Hormone replacement therapy and/or puberty blockers
 - d) Immunizations
 - e) Mental health care
 - f) Primary care (routine physicals and preventive care)
 - g) Referral services
 - h) Risk reduction counseling
 - i) Screening for sexually transmitted infections
 - j) Surgical specialty care for gender affirming surgery (including plastic surgery, chest/breast/top surgery, bottom surgery, and facial feminization surgeries)
- 6) Coordination of the above services, as well as medical record management/documentation, will be done via OHS. All aspects of care (onsite and offsite) will be communicated to OHS to coordinate commissioning requirements and to apply for a waiver of physical standards. Private health information will be shared with BUMED with patient consent.
- 7) Students may choose, as they can do now, to use their own health care services outside of OHS. In these situations, as is currently required, necessary medical records would continue to be shared between OHS and non-OHS health care facilities under consent. This will

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allow advisement to the student and outside facilities regarding BUMED standards, applications for waivers, and commissioning requirements.

e. After Gender Transition:

- 1) Gender transition is complete when the gender marker is changed in the Academy's medical records. Once the gender marker is changed, the transgender student is responsible for meeting all applicable Academy standards of the updated gender marker. All existing ETPs will be cancelled and no ETPs will be granted for the prior gender.
- 2) Medical treatment does not necessarily stop once a gender marker is changed in the Academy's medical records. Transgender students must continue to work with OHS to ensure proper medical care and maintenance of medical readiness.
- 3) Unless required by this Superintendent Instruction, or any other Academy policy, transgender students must be treated in the same manner as non-transgender students.

7. Responsibilities:

a. The Superintendent shall:

- 1) Be responsible for reviewing and approving any requested ETPs; and
- 2) Review and process requests for waivers of service obligation requirements.

b. The Commandant of Midshipmen shall:

- 1) Ensure that this policy is implemented as to all aspects of Regimental life; and
- 2) Coordinate with OHS on all Transition Plans.

c. The Director of Admissions shall:

- 1) Request medical waivers for transgender applicants.

d. The Director of Athletics shall:

- 1) Ensure compliance with NCAA student-athlete transgender policy.

e. The Director of the Office of Health Services shall:

- 1) Ensure appropriate care for students with gender dysphoria;

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- 2) Formally advise the Commandant of Midshipmen when a student has completed transition, and their gender marker has been changed in their medical records; and
 - 3) Determine if the student meets all medical appointment standards, including timing limitations listed in Paragraph 6(d) of this Instruction.
- f) The Diversity, Equity and Inclusion Officer shall:
- 1) Ensure appropriate training on transgender topics for the Regiment of Midshipmen;
 - 2) Provide advice and guidance to transgender students prior to, during, and after completion of the transition process; and
 - 3) Communicate with the Commandant's Office to ensure coordination of support.
8. Expiration: This Superintendent Instruction goes into effect immediately and remains in effect until superseded or rescinded.



Joanna M. Nunan
Vice Admiral, USMS
Superintendent

Dist. Via Email

Responsible Official: Diversity, Equity and Inclusion Officer