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			<b>OPI:</b>	DIRECTOR	
			<b>REVIEW DATE:</b>	June 17, 2022	
			<b>Approving Authority</b>	Quincy L. Booth Director	
	<b>SUBJECT:</b>	<b>GENDER CLASSIFICATION AND HOUSING</b>			
	<b>NUMBER:</b>	<b>4020.3H</b>			
<b>Attachments:</b>	Attachment A – Gender Housing Request Form Attachment B – Transgender Shave Request Form Attachment C – Transgender Housing Committee Recommendation Form				

**SUMMARY OF CHANGES:**

Section	Change
	<i>Significant changes throughout the policy.</i>
	<i>Attachment A, "Gender Housing Request Form" has been revised.</i>
	<i>Attachment B "Transgender Shave Request Form" was added to the policy.</i>

**APPROVED:**



**Quincy L. Booth, Director**

6/17/2021  
**Date Signed**

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**1. PURPOSE AND SCOPE.** To establish procedures on providing the appropriate housing of Transgender, Intersex, and Gender Nonconforming persons who are incarcerated and housed within the District of Columbia Department of Corrections(DOC).

## **2. POLICY**

- a. It is DOC policy to provide services in a humane and respectful manner to Transgender, Intersex, and Gender Nonconforming inmates while processing and housing them safely and efficiently to the greatest extent possible. For the safety, security, and order of the facility, the DOC houses male and female offenders in separate housing units. DOC shall house Transgender, Intersex, or Gender Nonconforming inmates in male or female units based on their preference, unless otherwise recommended by the Transgender Housing Committee and approved in accordance with this policy.
- b. In order to address the specific needs of Transgender, Intersex, and Gender Nonconforming individuals, upon initial intake at the Inmate Reception Center (IRC), staff shall follow the guidelines in this policy in order to determine the inmate's housing in a male or female housing unit based on the inmate's preferred placement, safety/security needs, housing availability, gender identity, identity documents, and assigned sex at birth, if:
  - 1) An inmate indicates that he or she is Transgender, Intersex, or Gender Nonconforming at any time during their custody.
  - 2) An inmate's gender identity or gender expression differs from their assigned sex at birth.
  - 3) A gender designation made by the medical service provider, government agency, or law enforcement agency indicates that the inmate is transgender.

## **3. NOTICE OF NON-DISCRIMINATION**

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Code § 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

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#### 4. DIRECTIVES AFFECTED

##### a. Directives Rescinded

PP 4020.3G          Gender Classification and Housing (10/15/19)

##### b. Directives Affected

PP    1280.2          Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences

PP    4090.3          Classification (Program Review)

PM    8010.1          Work Release Program

PP    3350.2          Elimination of Sexual Abuse, Sexual Assault, and Sexual Misconduct

PP    5009.2          Searches of Inmates, Inmate Housing Units, Work and Program Areas

#### 5. AUTHORITY

- a. Farmer v. Brennan, 511 U.S. 825 (1994).
- b. Doe v. District of Columbia, 215 F. Supp. 3d 62 (D.D.C. 2016).
- c. Shaw v. District of Columbia, 944 F. Supp. 2d 43 (D.D.C. 2013).
- d. D.C. Code § 24-211.02, Powers; Promulgation of Rules.
- e. D.C. Human Rights Act of 1977, as amended, D.C. Code § 2-1401.01 et seq.
- f. Prison Rape Elimination Act, 34 USC § 30301, et seq.
- g. 28 C.F.R. Part 115, Prison Rape Elimination Act National Standards.
- h. D.C. Code § 22-3013 Sex Offenses - First Degree Sexual Abuse of a Ward, Patient, Client, or Prisoner.

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- i. D.C. Code § 22-3014 Sex Offenses - Second Degree Sexual Abuse of a Ward, Patient, Client, or Prisoner.
- j. D.C. Code § 2-1402.31; District Requirements in Public Accommodations Gender Identity and Expression (4 DCMR § 802.2; 4 DCMR § 801.1)

## 6. STANDARDS REFERENCED

- a. American Correctional Standard (ACA) 4th Edition, Standards for Administration of Correctional Agencies, 4th Edition 4-ALDF-4D-22-4.
- b. Prison Rape Elimination Act of 2003, Department of Justice, 28 CFR Part 115.

## 7. DEFINITIONS

- a. **Gender Identity.** Gender Identity is defined as an individual's inner most concept of self as male, female, a blend of both, or neither. It is how individuals perceive themselves. One's gender identity can be the same or different from their sex assigned at birth, may not be visible to others and is unrelated to an individual's sexual orientation.
- b. **Gender Expression.** Gender Expression is defined as the external appearance of one's gender identity, usually expressed through behavior, clothing, haircut, voice, and/or chosen name and preferred pronouns. Gender Expression might not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.
- c. **Intersex.** Intersex is defined as a set of medical conditions that features a congenital irregularity of the reproductive and sexual system. A person with an intersex condition is born with sex chromosomes, external genitalia, and/or an internal reproductive system that is not considered "standard" for either male or female.
- d. **Sexual Orientation.** Sexual Orientation is defined as one's romantic, emotional and/or sexual attraction to members of the same, opposite or both sexes. Includes male or female homosexuality, heterosexuality, and bisexuality.

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- e. **Transgender.** Transgender is a term used to describe a person whose gender identity does not correspond with their sex assigned at birth.
  - f. **Gender Nonconforming.** Gender Nonconforming refers to any person whose expression of gender (masculinity and femininity) does not conform to the dominant gender norms of Western culture.
  - g. **Vulnerability.** Vulnerability refers to any person or population targeted for physical and sexual violence and abuse based on their gender identity or gender expression.
  - h. **Transgender Housing Committee.** The Transgender Housing Committee refers to a committee established by the DOC comprised of a chairperson who is the DOC Chief of Case Management or designee from the Programs and Case Management (PCM) division, a Medical Practitioner from the DOC Office of Health Services Administration (OSHA), a Mental Health Clinician from OSHA, a DOC Correctional Supervisor from the Operations division, the PREA Victim's Services Coordinator, a representative of the Mayor's Office on LGBTQ Affairs, and at least one DOC approved volunteer who is a member of the Transgender community and who is experienced and knowledgeable about Transgender issues or an acknowledged expert in Transgender affairs. The committee shall determine the Transgender inmate's housing assignment after review of all of the inmate's records and assessments, and an interview with the inmate during which the inmate's own opinion regarding appropriate placement and assessment of their vulnerability in the jail population shall be considered.
  - i. **Transgender Advisory Committee.** The Transgender Advisory Committee (TAC) serves as a liaison among the DOC, the Transgender community, and its stakeholder organizations. The objectives of the TAC are to establish open communication between DOC and the Transgender community, by maintaining an ongoing dialogue on issues/problems facing the transgender community, and promote public awareness of the programs and services offered for the transgender community.
8. **PROCEDURES.** In all circumstances, staff shall ask questions related to gender identity or gender expression only for the purpose of making intake and housing assignments, classification, programming, providing health care and health assessments, or where information is necessary to maintain the safety, security and order of inmates, staff, visitors, the facility, and the community. Questions related to gender identity or gender expression shall be asked in a respectful manner to preserve confidentiality as well as human dignity and avoid subjecting the inmate to danger, abuse, humiliation or ridicule.

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Searches or physical examination of Transgender, Intersex, or Gender Nonconforming inmates/detainees by any staff member, other than a physician, for the purpose of determining the inmate/detainee's genital status is strictly prohibited.

- 9. INITIAL INTAKE.** Upon initial intake in the Inmate Reception Center (IRC), if an inmate's gender-related expression, identity, appearance, or behavior differs from their assigned sex at birth or the sex listed on any of the inmate's documents or records, staff shall ask the inmate how they self-identify and place the inmate in a cell by themselves during the intake process for their safety and security and the safety, security, and order of the facility.

*Staff shall:*

- a. Case management staff shall review commitment documents for gender assignment or any notification that identifies the inmate as Transgender, Intersex, Gender Nonconforming, or "vulnerable."
- b. If, after reviewing commitment documents and other notifications, staff still cannot determine the inmate's assigned sex at birth, or the inmate refuses to cooperate, the DOC staff involved in this process shall immediately notify their appropriate supervisor.
- c. All DOC staff shall refer to inmates by their last names without references to gender specific identifiers such as Mr., Mrs., Miss, Ma'am, Sir, or other gender-specific terms used in addressing a person. Instead, the gender-neutral term "Inmate" is to be used with the last name. DOC staff shall endeavor to use the residents' preferred pronouns (e.g., "she, her, hers" or "he, him, his") or gender-neutral pronouns ("they, them, their").
- d. Pursuant to PREA standards, all inmates entering the DOC are required to receive a private strip search. Those who identify as Transgender, Intersex, or Gender Nonconforming may request that an officer of a specific gender perform the strip search.
- e. All inmates at intake into the DOC shall go through a medical and mental health screening. As part of the medical screening all inmates receive a complete medical and physical examination.
- f. Transgender, Intersex, or Gender Nonconforming inmate shall be treated as a protective custody inmate for the duration of the intake process.
- g. Transgender, Intersex, or Gender Nonconforming inmates shall be escorted by staff to the appropriate unit to complete the

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intake process in a manner consistent with protective custody's requirements.

- h. The Case Management staff shall accurately record the inmate as Transgender, Intersex, or Gender Nonconforming and record the inmate's gender identity and sex assigned at birth in Offender Management System (OMS).
- i. All intake documentation shall include the inmate's birth and/or legal name, the also known as (aka) name, and the name the inmate has been booked under by the arresting agency.
- j. Officers are required to document any extraordinary inmate incidents consistent with PP 1280.2, *Reporting and Notification Procedures for Significant Incidents and Extraordinary Occurrences*.

## 10. INTAKE HOUSING UNIT

- a. Inmates identified as Transgender, Intersex, or Gender Nonconforming shall be housed in protective custody (voluntary or involuntary protective custody) in a single cell in the intake housing unit consistent with the inmate's gender housing preference identified at intake for **within twenty-four (24) hours**, excluding weekends, holidays, and emergencies, before receiving a preliminary assessment by the PREA Victim Services Coordinator. The PREA Victim Services Coordinator shall conduct an initial safety and security assessment related to the gender housing preference of the Transgender, Intersex, or Gender Nonconforming inmate. **Within seventy-two (72) hours**, excluding weekends, holidays, and emergencies, after the preliminary assessment by the PREA Victim Services Coordinator, the Transgender Housing Committee shall conduct a formal classification and housing needs assessment for the Transgender, Intersex, or Gender Nonconforming inmate.
- b. **Inmates who Self-Report as Transgender, Intersex or Gender Nonconforming.** Once an inmate makes known to DOC staff their Transgender, Intersex, or Gender Nonconforming status, staff shall:
  - 1) Refer the Inmate to their assigned case manager or, on weekends, the captain or above.
  - 2) The case manager or the captain shall refer the inmate to the Transgender Housing Committee to determine the inmate's housing based on their gender housing preference, safety/security needs, gender identity and assigned sex at birth.

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- 3) In accordance with PP 4090.3, *Classification (Program Review)*, all Transgender, Intersex, or Gender Nonconforming inmates will be classified and assigned housing based on safety/security needs, housing availability, gender identity and sex assigned at birth. No inmate will be discriminated against based on their gender identity.

## 11. TRANSGENDER HOUSING COMMITTEE ROLE

- a. As part of the housing assessment for vulnerability, the Transgender Housing Committee shall make a recommendation as to the Transgender, Intersex or Gender Nonconforming inmate's housing assignment after reviewing the inmate's records including the assessments (PREA and Risk Assessment) and interviewing the inmate.
- b. The Committee shall ask the inmate to offer their opinion regarding whether they prefer to be housed in the male or female unit and any vulnerability they anticipate in the general jail population of the male or female unit. The Committee shall agree to house the inmate in the gender housing unit the inmate prefers—whether it corresponds to the inmate's gender identity or sex assigned at birth—unless the Committee has identified safety and security concerns with the inmate's preferred housing placement. The Committee shall attempt to reach a consensus, ultimately relying on majority vote when needed.
- c. The Transgender Housing Committee shall record all Transgender Housing Committee meetings and shall notify the inmate that all meetings are being recorded. The Transgender Housing Committee shall not record its deliberations but will provide a written decision to the Warden for approval. The written decision shall be maintained in the inmate's institutional record and scanned into PaperClip.
- d. The Transgender Housing Committee's housing assessment shall address whether the inmate shall be housed in the general population or in a protective custody unit of the gender consistent with their gender identity or sex assigned at birth. If the Warden's opinion regarding safety and security concerns differs from the recommendation of the Transgender Housing Committee, the Warden shall justify the assignment in writing to the Director for the Director to make a final determination. Transgender, Intersex, and Gender Nonconforming inmates have the same right to appeal housing assignments as all inmates consistent with PP 4090.3, *Classification (Program Review)*.
- e. An inmate may request to come before the Transgender Housing Committee at any time by submitting an inmate request slip or an Inmate Grievance form.



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- f. If it is decided that the inmate can be housed in the general population, the inmate shall be transferred to the general population as determined by the Transgender Housing Committee after completion of initial classification and upon housing availability. Transgender, Intersex, or Gender Nonconforming inmates shall be housed in a single cell or with another Transgender, Intersex, or Gender Nonconforming inmate in their assigned housing unit.
- g. A Transgender, Intersex, or Gender Nonconforming inmate shall be housed in protective custody when there is reason to believe the inmate presents a heightened risk to themselves or to others or where the inmate fears they will be vulnerable to victimization in any other housing setting. This assignment shall be only for the period during which the heightened risk and/or fear exists. Inmates in restrictive housing and protective custody shall have access to programs and services consistent with that status.
- h. If it is determined that the inmate requires protective custody, they shall be placed in such a unit and their custody shall be reviewed by the Transgender Housing Committee consistent with standard DOC policy.
- i. Consistent with standard DOC policy, Transgender, Intersex, and Gender Nonconforming inmates may be placed in communal protective custody pursuant to the determination of the Transgender Housing Committee and subsequent reviews of the inmate's status from the Housing Board.

## **12. INSTITUTIONAL OPERATIONS ACCOMMODATIONS**

- a. When clinically indicated by appropriate medical staff, Transgender, Intersex or Gender Non-conforming inmates on hormone therapy may continue to receive hormone treatment.
- b. *Personal Grooming.*
  - 1) In accordance with PP 4010.2, Inmate Personal Grooming, wigs are not permitted except in special circumstances and/or for medical conditions with the Warden's written approval. When artificial hair, including hair extensions and weaves, becomes loose or starts to come unglued from the scalp, the inmate shall have the responsibility of removing it.

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- 2) If the inmate wants to retain their artificial hair, they shall be allowed to do so, if the hair is glued, sewn in or approved by the medical team. Otherwise, the hair shall be inventoried and stored in the inmate's unauthorized/excess property and scheduled for pick-up pursuant to PP 4050.1, *Inmate Property*. Otherwise, the Major shall establish procedures for a safe and sanitary place for the inmate to remove artificial hair and a process for confiscation and destruction of the item.

*c. Inmate Clothing.*

- 1) Transgender, Intersex, or Gender Nonconforming inmates may request replacement underclothing using the Inmate Request Slip every 60 days. Hygiene kits are provided upon request by the Transgender Housing Committee at the initial Transgender Housing Committee meeting and additional hygiene kits are available to indigent inmates who have had less than \$5.00 dollars in their inmate's finance account for fourteen (14) days.
- 2) Transgender, Intersex, or Gender Nonconforming inmates shall be provided institutional clothing and privileges consistent with the gender of their housing assignment. Inmates under hormone therapy with secondary sexual characteristics (such as breasts) shall be provided appropriate underclothing (such as a bra) during the intake process.

*d. Inmate Accommodation and Grooming.*

- 1) Transgender, Intersex, or Gender Nonconforming inmates who are indigent may request DOC approved shaving cream once every 30 days by completing the Transgender Shave Request form (Attachment B).
- 2) Transgender, Intersex, and Gender Nonconforming inmates shall be given the opportunity to shower separately from other inmates.

*e. Anti-Discrimination.*

- 1) While incarcerated with the DOC, Transgender, Intersex, and Gender Nonconforming inmates shall not be discriminated against in regard to their participation in services, programs, or privileges consistent with their housing assignment and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or fellow inmates. Individuals who are found to engage in such misconduct shall be subject to appropriate disciplinary action.

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- 2) **Inmate Detail Housing Assignment.** Transgender, Intersex, or Gender Nonconforming inmates assigned to the detail or program unit shall be housed in a single cell or with another Transgender, Intersex, or Gender Nonconforming inmate. If accommodations cannot be made at the time of assignment, the Shift Supervisor shall be contacted immediately for appropriate housing.
- f. **Inmate Searches.** All searches of Transgender, Intersex, or Gender Nonconforming inmates shall be conducted in a professional and respectful manner, in the least intrusive manner possible, consistent with DOC policy outside of the presence of inmates or unnecessary staff to the degree practicable.

## **CONTRACT HALFWAY HOUSE HOUSING PROCEDURES**

### **a. Halfway House Referral**

- 1) As part of the Halfway Housing assessment for vulnerability, the Transgender Housing Committee shall recommend a Transgender, Intersex, or Gender Nonconforming resident's housing assignment after review of all of the resident's records and assessments and an interview with the resident. The Transgender Housing Committee shall ask the resident to provide their her opinion of their vulnerability in the male and female halfway houses and determine the resident's housing assignment based on the resident's preference, unless the committee has safety or security concerns about the resident's preferred placement. The Transgender Housing Committee shall attempt to reach a consensus, ultimately relying on majority vote when needed. A written recommendation (Attachment C) by the Transgender Housing Committee shall be forwarded to the DOC Office of Community Corrections Program Administrator for approval and shall be maintained in the resident's institutional record.
- 2) The Transgender Housing Committee shall make a recommendation to the DOC Office of Community Corrections Program Administrator as to whether the resident should be housed in the male or female halfway house.
- 3) When clinically indicated as determined by appropriate medical staff, residents may access their primary health care provider for hormone treatment and therapy.
- 4) Transgender, Intersex, and Gender Nonconforming residents shall wear appropriate clothing according to their assigned housing.

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*Halfway House Staff shall:*

- a. Accurately record the resident as Transgender, Intersex, or Gender Nonconforming and the resident's gender identity and sex assigned at birth in the resident's case file.
- b. Confirm that all intake documentation includes the resident's birth and/or legal name, the aka (also known as) name, and the name the inmate has been booked under by the arresting agency.
- c. Residents shall be called by their last names without references to gender specific identifiers such as Mr., Mrs., Miss, Ma'am, Sir or other gender-specific terms used in addressing a person. Instead, the gender-neutral term "Resident" is to be used with the last name. Halfway House Staff shall endeavor to use the residents' preferred pronouns (e.g., "she, her, hers" or "he, him, his") or gender-neutral pronouns ("they, them, their")
- d. Residents shall not be discriminated against in regard to their participation in services, programs, or benefits and shall not be subjected to verbal or physical harassment or a hostile environment by the staff or residents. Individuals who are found to engage in such abuse shall be subject to appropriate disciplinary action.
- e. To the degree practicable, searches of Transgender, Intersex, or Gender Nonconforming residents shall be conducted in a manner consistent with DOC policy outside the presence of other residents or non-critical staff.
- f. Transgender and Intersex residents shall be given the opportunity to showerseparately from other residents.

**Attachments**

Attachment A – Gender Housing Request Form

Attachment B – Transgender Shave Request Form

Attachment C – Transgender Housing Committee Halfway House Recommendation



**D.C. DEPARTMENT OF CORRECTIONS  
WASHINGTON, D.C. 20003**

**GENDER HOUSING REQUEST FORM**

It has been determined through Court documentation and/or information obtained from you that you are a Transgender, Intersex, or Gender Nonconforming individual. As such, and in accordance with the District of Columbia Human Rights Act of 1977, as amended, D.C. Code § 2-1401.01 et seq., which prohibits discrimination on the basis of sex, and gender identity or expression, and Department of Corrections Program Statement 4020.3, *Gender Classification and Housing*, you may request to be housed according to either your assigned sex at birth or your gender identity.

Pursuant to Department of Corrections (DOC) Program Statement 4020.3, you will appear before the Transgender Housing Committee. This Transgender Housing Committee will decide your housing assignment based on a review of all of your records and clinical assessments, as well as an interview during which your opinion regarding appropriate placement and assessment of your vulnerability in the jail population will be considered.

Please understand that the DOC is concerned with your safety, as well as the orderly operation of its facilities. As such, the final decision of your housing will be determined in accordance with District of Columbia laws, DOC policies, and the safety, security and order of the facility and its occupants.

( ) Option 1: I, \_\_\_\_\_, DCDC # \_\_\_\_\_ hereby request to be housed according to my sex assigned at birth (Circle one: Male / Female) and I understand that a Transgender Housing Committee meeting will be scheduled to consider my request.

( ) Option 2: I, \_\_\_\_\_, DCDC# \_\_\_\_\_ hereby request to be housed according to my gender identity (Circle one: Male / Female) and I understand that a Transgender Housing Committee meeting will be scheduled to consider my request.

Inmate's Signature: \_\_\_\_\_ DCDC#: \_\_\_\_\_ Date: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_

Committee Recommendations:

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Inmate \_\_\_\_\_ DCDC# \_\_\_\_\_

**Transgender Housing Committee Members:**

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

\_\_\_\_\_  
Print Name Sign/Date

**Warden's Section**

**Warden' Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Approval \_\_\_\_\_ Disapproval \_\_\_\_\_

Warden's Written Decision (if Transgender Housing Committee Recommendation is disapproved)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Inmate \_\_\_\_\_ DCDC# \_\_\_\_\_



**D.C. DEPARTMENT OF CORRECTIONS  
CENTRAL DETENTION and CORRECTIONAL TREATMENT FACILITY  
Washington, D.C. 20003**

***TRANSGENDER SHAVE REQUEST FORM***

Date: \_\_\_\_\_

I \_\_\_\_\_, DCDC # \_\_\_\_\_ am requesting a  
shave and I am willing and able to use a shaving cream.

I \_\_\_\_\_, DCDC # \_\_\_\_\_ am not requesting a  
shave at this time.

**Inmate Signature:** \_\_\_\_\_

**Witness Signature:** \_\_\_\_\_

**Case Manager Signature:** \_\_\_\_\_

- *I understand that I will be given this initial tube of Magic Shave and this tube is to last one (1) month from the date I sign this form. I will only be granted another tube if I am indigent according to DOC Policy.*



## TRANSGENDER HOUSING COMMITTEE HALFWAY HOUSE RECOMMENDATION

The Transgender Housing Committee recommends placement at \_\_\_\_\_  
(halfway house). I, \_\_\_\_\_, agree and accept the Transgender  
Housing Committee's decision.

\_\_\_\_\_  
Inmate's Name/DCDC#

\_\_\_\_\_  
Inmate's Signature

\_\_\_\_\_  
Date

### Transgender Housing Committee Members:

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Sign/Date