DEPARTMENT OF CORRECTIONS

Policy Number: 103.012
Title: Gender Specific Assignment
Effective Date: 4/2/19

PURPOSE: To identify the requirements for establishing gender-specific positions or assignments in order to minimize the number of posts or positions with gender as a bona fide occupational qualification.

APPLICABILITY: Minnesota Department of Corrections (DOC); department-wide

DEFINITIONS:
Bona fide occupational qualification (BFOQ) – for the purposes of this policy, an employment qualification needed for the efficient completion of an essential job duty necessary to meet the mission of the DOC, which is a narrow exception to the general prohibition of discrimination on the basis of sex.

Functional work area – identified area that has responsibility for similar functions (e.g., visiting, transportation, segregation, etc.).

Gender-specific assignment – a job, task, or assignment that requires consideration of the employee's gender in relation to the offender's gender when conducting unclothed body searches, transportation (when staff-accompanied use of a public bathroom by an offender may be necessary), the collection of offender urine samples, or supervising an offender open shower area.

Gender-specific position – a specific position or post that requires consideration of an employee's gender to meet requirements in Policy 301.010, "Searches;" juvenile licensing standards; or other laws, rules, or standards governing the processing of offender unclothed body searches, the collection of urine samples, or supervising open shower areas as substantial and primary tasks or other activities where offender privacy is a consideration.

Substantial and primary – when the tasks of conducting unclothed body searches, the collection of urine samples, or supervising an open shower area on a non-urgent basis are a significant responsibility of the functional work area.

PROCEDURES:
A. Establishing gender-specific corrections officer one, two, and three posts/positions in correctional facilities
   1. The following functional work areas are the only areas that require substantial and primary gender-specific assignments:
      a) Visiting;
      b) Segregation;
      c) Administrative control unit (ACU);

d) Intake;
e) Transportation;
f) A-team (security squad);
g) Secured closed units (such as the restricted living units); and
h) Inpatient hospital coverage.

2. Each facility must ensure the identified functional work areas that require substantial and primary gender-specific assignments have two officers assigned to each watch of the same gender as the offenders. Each facility may use the process of consolidating, sharing, rotating, and re-assigning gender-specific duties among officers on each watch in lieu of creating a gender-specific position.

3. Filling vacancies in identified functional work areas:
   a) The supervisor of the area must determine if the vacancy requires a same gender staff person to meet the gender-specific tasks/duties of the position.
   b) The position must be posted without specifying gender if the gender-specific tasks/duties may be met through consolidating, sharing, rotating, or re-assigning duties among staff between the identified functional work areas of other work areas on the watch.
   c) If the position with the gender-specific needs cannot be met by consolidation, sharing, rotating, or re-assigning duties, the supervisor must complete the Request to Post a Gender Specific Vacancy form (attached) and forward the request to the regional human resources director (RHRD). (Note: a position control number must not be designated as gender-specific as it is the posting that would indicate the need for the gender designation.)
   d) The RHRD reviews the request.
      (1) If the request is consistent with the purpose of this policy, the RHRD may approve the request and notify the Human Resources Director (HRD)/designee.
      (2) If the request is not consistent with the purpose of this policy, the RHRD must consult with the HRD/designee to approve/deny the request.
      (3) All request forms are retained by the RHRD.
   e) If the gender-specific request is denied, the RHRD must meet with the supervisor to develop a plan to meet the work needs of the area.
   (f) All paperwork is retained by the HRD/designee in accordance with the Human Resources (HR) records retention schedule.

B. In order to establish a bona fide occupational qualification (BFOQ) or gender-specific position for non-officer vacancies:
   1. The supervisor must identify the need for adding or deleting the designation of a BFOQ or gender-specific position.

   2. The supervisor must discuss such needs with the RHRD.

3. The RHRD reviews and recommends whether a gender-specific position or a BFOQ is appropriate to the appointing authority/designee.

4. The appointing authority/designee reviews the recommendation for a gender-specific position or a BFOQ.
   a) If the appointing authority/designee approves the recommendation, it is forwarded to the HRD for review and approval/denial.
   b) The regional HR office retains all paperwork regarding decisions made and the forms according to the retention schedule.

5. For positions in classifications not delegated to the DOC, the HRD must forward, for review and consultation, the recommendation for the establishment of a BFOQ to the deputy commissioner of the Minnesota Management and Budget (MMB), office of diversity.

6. If a request is approved, the vacancy is posted as gender-specific or gender BFOQ.

7. Prior to posting the approved gender-specific position, the RHRD must discuss with the local union the posting of this position and explain the need for the gender designation.

8. If the request is denied, the RHRD must meet with the supervisor of the vacancy to develop a plan to meet the work needs of the area.

9. All paperwork, including the Request to Post a Gender Specific Vacancy form and final decision of DOC/MMB to add a gender-specific position in a non-delegated job classification, is retained by the HRD/designee in accordance with the HR records retention schedule.

INTERNAL CONTROLS:

A. All paperwork, including the Request to Post a Gender Specific Vacancy form and final decision of DOC/MMB to add a gender-specific position in a non-delegated job classification, is retained by the HRD/designee in accordance with the HR records retention schedule.

ACA STANDARDS: None

REFERENCES: Collective bargaining agreements
20 CFR 1604
42 USC § 2000(e)(1)
Minn. Rule 2960.0150; 2960.0240; and 2960.0560

REPLACES: Policy 103.012, "Gender Specific Assignment," 11/21/17.
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Request to Post a Gender Specific Vacancy form (103.012A on HR iShare site)

APPROVED BY:
Deputy Commissioner, Community Services
Deputy Commissioner, Facility Services
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