Implementing HUD’s Equal Access, Gender Identity, & Fair Housing Rules
Agenda

• Discuss Equal Access Rule
• Review Gender Identity, Gender Expression, Sexual Orientation
• Discuss Specific Scenarios at Projects
• Review Resources to Help Going Forward
• Discuss How Fair Housing Applies
HUD’s Equal Access and Gender Identity Rules

- In effect October 21, 2016
- Equal access is provided in all HUD assisted programs
- Individuals are placed in accordance with gender identity
- No requirements for individuals to “prove” gender identity
- Providers must update policies and procedures to reflect requirements
### Gender Identity
- Internal or innate sense of being male, female, or another gender
- May or may not match their assigned sex at birth

### Gender Expression
- External expression of gender identity (note that many times people do not feel they can safely express their gender identity)
- Exhibited through: behavior, clothing, hairstyle, body language, and voice

### Sexual Orientation
- Physical or emotional attraction to the same and/or opposite sex
- Distinct from one’s gender expression or identity
Language: Using Appropriate Terms

<table>
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<th>Transgender</th>
<th>Transitioning (Gender Transition)</th>
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| • Umbrella term for people whose gender identity is different from their assigned sex  
  • Occasionally, an individual may determine they no longer identify as transgender after they transition. | • Process that some (but not all) transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth.  
  • Transitioning does not require medical|
Experience Poll: Are These Terms New to You?

Have you used this language in your project/setting?
❑ Yes, these are very familiar terms that I use regularly;
❑ Yes, these are terms I’ve heard before but don’t use regularly;
❑ No, these are new terms.
Why are LGBT Protections Necessary?

• Among homeless LGBT youth (up to age 24), the average age of being homeless the first time is 15 years old.

• Nearly two thirds of homeless shelters in a recent study failed to enroll a person properly once they identified as transgender.

• Nearly a quarter of homeless transgender residents report being assaulted by other residents or staff at homeless shelters.
Is my project required to comply with the Equal Access Rule?

Yes.

All HUD programs, from sheltering to mortgage programs must comply with the Equal Access Rule. This includes all Community Planning and Development Programs:

- CDBG
- HOME
- CoC
- ESG
- HOPWA
- Housing Trust Fund
- Rural Housing
I run a 50 bed emergency shelter for men. My project is housed in an old firehouse and only has congregate sleeping and bathroom facilities with no privacy for any clients. One of the men staying in the shelter comes to a volunteer staff person and identifies as transgender. Do I allow them to continue using the same facilities as other clients?

- Not only can you allow it, but are required to do so.
- Do not isolate clients based on their transgender status.
- A client may request an accommodation (in this case perhaps requesting a bed assignment near the staff workstation or access to space set aside for highly vulnerable clients) however, staff may not impose or require a client accept an accommodation.
- Treat all clients that are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.
Scenario #2: Domestic Violence Shelter

I run a domestic violence project that serves women. We house residents in two separate buildings on the same property. All residents have access to the same services but I’ve decided to house transwomen in one building and women in the other. I did this because I’m worried about triggering traumatic experiences for residents of the project as they begin to rebuild their lives.

- Can I require all transwomen be served in a different building or project?

The answer is NO.
What Discrimination Looks Like: Emergency Shelters

• A shelter employee hanging up immediately after caller reveals she is transgender.

• A shelter employee making references to genitalia or to surgery as requirements for appropriate housing.

• A shelter employee refusing to enroll a participant “because they would make other participants uncomfortable or feel unsafe.”
What have you seen in your project?

- None of these issues have come up in my project/community;
- These are issues that have come up but are not managed well;
- These are issues that have come up and are managed in accord with the Equal Access Rule.
What Discrimination Looks Like: TH, PSH, Other Housing

• Management of housing projects or facilities failing to address complaints from LGBT individuals regarding harassment by other residents.

• Project staff revealing an individual’s status as transgender and requiring special procedures for households with a transgender person.

• Project staff excluding individuals based on family composition.
Knowledge Check

- If I serve women and children, do I need to serve men with children?

☐ Yes
☐ No

The answer is YES
At my women’s shelter, where everyone sleeps in a room with 3 roommates, a person is referred to the project by an outreach worker. We don’t have any extra space to house trans clients. When they arrive, the individual refuses to pick male or female and says they don’t identify with either. What should I do?

- Ask the client, “We serve women at this project, do you feel your gender identity more closely aligns with the housing and services we offer?” If so, enroll the client.
- HUD does not require project participants to select male or female. In fact, the HMIS Data Element 3.6 (Gender) allows for multiple gender categories, including transgender and “doesn’t identify as male, female, or transgender.”
- “Extra” space isn’t necessary to serve transgender or non-binary clients seeking services. Serving these clients is part of what HUD funded services do as part of their usual work, not as an added bonus.
Where to Begin?

- Does your agency have an anti-discrimination policy?
- Does it include gender identity, gender expression, and sexual orientation in the list of protected attributes?
- Are your staff, volunteers, and contractors trained on this policy?
Use training scenarios 2-3 to model this
Creating Safe Space in your Facility

People will ask the following when walking into your space:

• *Is this a place where I can be myself, or will I have to hide who I am?*

• *Is this a place where I will experience violence from people around me—employees, volunteers, or other residents?*

• *Will the people who work here understand what I need?*

• *Am I safe enough here to stay off the streets tonight?*

Use Training Scenario 6 to model the development of safe space
Safe Spaces: Showers and Bathrooms

- Access is based on gender identity
- Increase privacy, when possible, by:
  - Installing temporary or permanent curtains
  - Installing locks, doors or partitions to toilet stalls
  - Single-use facilities are gender neutral, meaning anyone can use them
  - Increase privacy through staggered shower times for those who request more privacy

Use training scenario #4
Making Room for All Families

• When projects serve ANY families with children, they must serve ALL families with children.

• That includes families of any composition type: single dad, single mom, same-sex couples, opposite-sex couples, multi-generational, and non-romantic groups who present for services as a family.

• For more information, visit https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family-that-was-included/
Safe Spaces: Non-Binary Clients in Single-sex Facilities

Some clients may not identify themselves as either male or female

BUT

Most shelters assign housing and programming based on two genders only: male and female

How Should Project Staff Resolve This?

• **Explain** that the shelter’s decisions are based on two genders only
• **Ask** the client to choose the gender with which they most closely identify
• **Make decisions** for placement that are appropriate to the gender selected by the individual.
Safe Spaces: Conflict Resolution

- Don’t target the more cooperative harassed individual to make changes. Focus on the aggressor.
- Staff training should incorporate multiple ways to address and resolve impermissible conduct among residents
- **Conflict resolution should not involve expulsion of the victim of harassment.**

Use scenario 1 and 5 to model
Next Steps

**Frontline staff:**
- Do we have an anti-discrimination policy?

**Managers and Directors:**
- Do we have an anti-discrimination policy?
- Do we regularly train staff and volunteers on the policy and how to implement? (Hint: use the staff training scenarios to get started!)

**CoC Boards and other planning bodies:**
- Do our projects have anti-discrimination policies?
- Do we support projects to train staff on the policy and how to implement?
- Have we been clear that projects must comply with these requirements?
Resources


- Ask for help, reach out to statewide and local LGBTQ advocacy organizations, or other organizations with expertise:

- Find statewide LGBTQ advocacy organizations at: https://www.equalityfederation.org/members/list/

Who Can I Ask For Help?

Visit HUD Exchange LGBT Homelessness Resource Page:
• [https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/](https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/)

Materials available on the page include:
• Resources for people in crisis
• Guidebook for developing inclusive, anti-discriminatory policies and procedures
• Project self assessment tool
• Staff training scenarios
• Decision tree for Coordinated Entry staff and project staff
• Web link and phone number to report violations
The Fair Housing Act also prohibits discrimination based on gender identity, and on sexual orientation where the evidence establishes discrimination is based on sex stereotyping.

File complaints at:
Or call (800) 669-9777
A related but broader rule prohibiting discrimination in housing

FAIR HOUSING ACT & APPLICABILITY
Fair Housing Basics: Fair Housing Act

Prohibits discrimination (in intent or impact) in any housing related activity, including housing services such as case management and housing navigation.

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<td>Race</td>
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<td>Sex</td>
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<td>Religion</td>
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<td>Familial Status (families with minor children and pregnant women)</td>
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<td>Other</td>
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Discrimination includes refusing to rent to someone, steering someone away to a particular type of housing or neighborhood, enacting zoning measures to exclude particular groups because of membership in a protected class.

Nevada-specific protected classes: ancestry, sexual orientation, and gender identity or expression.

Protected categories in CA
- Race
- Color
- Religion (includes religious dress and grooming practices)
- Sex/gender (includes pregnancy, childbirth, breastfeeding and/or related medical conditions)
- Gender identity, gender expression
- Sexual orientation
- Marital status
- Medical Condition (genetic characteristics, cancer or a record or history of cancer)
- Military or veteran status
- National origin (includes language use and possession of a driver’s license issued
to persons unable to provide their presence in the United State is authorized under federal law)
• Ancestry
• Disability (mental and physical including HIV/AIDS, cancer, and genetic characteristics)
• Genetic information
• Request for family care leave
• Request for leave for an employee’s own serious health condition
• Request for Pregnancy Disability Leave
• Retaliation for reporting patient abuse in tax-supported institutions
• Age (over 40)
Decisions, policies, and activities must not:

• Have discriminatory intent or impact
• Make unfounded assumptions or speculations

Includes:

– Discriminatory refusal or denial of services or termination of housing
– Misrepresentation of availability
– Failure to make reasonable accommodations
– Retaliation
– Harassment, intimidation, threats and coercion

• Disparate treatment = Different treatment

• Intentional discrimination that targets specific classes and does not treat all residents similarly
**Discrimination: Disparate Impact**

- Different Impacts and Unintended Consequences
- Rules may seem nondiscriminatory but have a disparate impact, which is a greater effect on people in protected classes
- Rules with disparate impacts are still discriminatory
  - Permissible ONLY if there is no feasible way to address legitimate business purpose—likely requires significant consideration to avoid violating the law

Policies and practices also cannot have discriminatory effects

It is very important that housing and shelter providers review all of their policies, rules, procedures, eligibility criteria, etc. to determine if there are policies and practices, however unintentional, which could result in members of a protected class being treated differently.

Examples:
- No curry permitted in apartments (disproportionate impact on South Asians or persons from the Caribbean)
- No one can play outside (disproportionate impact on families with children)
- No rental to domestic violence survivors (disproportionate impact on women)
Discrimination: Examples

• Refusal to Rent
• Steering
• Unreasonable Requirements
• Unfair notices
• Harassment
• Segregation
• Unequal Treatment
• Rules and Policy Enforcement

Refusing to Sell or Rent...
because of one's “protected class” status
• Refusing to show available housing
• Telling qualified applicant units were not available when they were available
• Making home seekers feel “not particularly welcome” because of their protected class
• Making discriminatory statements
• Delaying tactics such as manipulating waiting lists or delaying action on applications
• Telling one person price was firm, but others price was negotiable

Segregation (recent issues around segregation by sex)
• Providers may not segregate residents by sex unless they have shared sleeping areas, bathing areas and/or bathrooms, which would negatively influence the residents’ right to privacy.
• Must NOT mandate sleeping arrangements within individual units. For example, restricting a boy and girl from sharing a bed or bedroom is not allowed.
• Fair housing laws do not allow a provider to dictate sleeping arrangements because of fears of abuse. If a provider has concerns about possible child abuse in
a specific situation, contact the proper authority.

**Rules/Policy Enforcement**

- Resident conduct rules should apply to everyone
- Damage is damage
- Allow common area use for all
- No kid-only curfews
- Follow guidelines when setting rules for parental supervision
- Follow existing health and safety laws or existing industry standards when setting age limits for use of amenities (e.g., pools, fitness equipment)

**Applies to Advertising**

*(Newspapers, hand-written ads, eviction notice, newsletters, bulletin board notice, verbal statements, photographs, pictures, drawings, signs, symbols, human models, Internet Advertising, etc.)*

**Examples**

- 2BR: “No children, pets ok” Brooklyn NY
- “No Guamanians” Oxford, MS
- “We rent to people who speak English.”
- 2BR: “Not suitable for kids” HI
- “We don’t rent to people with assistance animals.”
- 3BR: Duplex: “Christian Atmosphere” Evansville, IN
**Dwellings:**
- Exs: houses, apartments, university student housing, farmworker housing, AIDS hospice, nursing homes, homeless shelters
- Exception: Dwellings that are not “Intended for Occupancy” (exs., motels, jails, bed & breakfasts), Owner-occupied properties with 4 (or 5) or less units, single family homes rented without a broker, senior housing is not considered discriminatory even though it limits occupancy based on family status, rentals by religious organizations are tricky because they can limit rentals to people of their religion but they still cannot discriminate based on race, color, or national origin

**Advertising:**
even if your property is exempt from the FHA because of one of the reasons listed above, you must still comply with the law's ban on issuing discriminatory statements, notices, or advertising (**42 U.S. Code § 3603(b)**)

**Case-by-case determination using a number of factors:**
- Length of stay
- Intent and right to return each night to a particular abode/bed
- Amenities included (phone, mailing address, etc.)
- How property is marketed
• Written terms of the occupancy agreement between the provider and resident
• Rent payment, including program fees, and in-kind exchange such as performing chores, or requirements such as attending meetings or support groups
• Whether the primary purpose of a program is treatment or housing; for example a drug treatment facility, and the housing provided is incidental to the program

Non-Traditional Housing Covered under Fair Housing Laws (with some exceptions)
• Group homes • SROs • Residential motels/hotels • Transitional housing • Homeless shelters • Clean and sober housing • Social service providers who deal with housing (like housing authority “special programs”)
General Rule: It is unlawful to limit housing or program opportunities to persons with disabilities, including diagnosis-specific disabilities, absent statutory or regulatory authority.

Only certain housing programs are explicitly authorized to grant preferences to people who have specific disabilities, pursuant to federal statute or executive order (such as HOPWA, Section 811, McKinney Act Shelter Plus Care, etc.).

Permissible to give preferences for:

• CoC Program
  • § 578.93(b)(7) further states that while the housing may offer services for a particular type of disability, no otherwise eligible individual with a disability, or family that includes an individual with a disability, who may benefit from the services provided may be excluded on the grounds that they do not have a particular disability.
  • EXAMPLES/Clarifying info:
    • One clarifying example is as follows. A private, nonprofit organization or a local government applies for and receives a new grant under this part to provide project based rental assistance and services, including case management, intensive therapy provided by a psychiatrist, and medication management. The recipient or subrecipient may establish a preference for individuals who are chronically homeless. When filling an opening in the housing, the recipient or subrecipient may target...
chronically homeless individuals or families, but if there are no such individuals or families either on a waiting list or applying for entrance to the program, the recipient or subrecipient cannot deny occupancy to individuals or families who apply for entrance into the program and who may benefit from the services provided. When filling a vacancy in the housing, the recipient or subrecipient, if presented with two otherwise eligible persons, one who is chronically homeless and one who is not, may give a preference to the chronically homeless individual.

- By comparison, § 578.93(b)(6) addresses situations where Continuum of Care funds are combined with HUD funding for housing that may be restricted to a specific disability. For example, if Continuum of Care funds for a specific project are combined with construction or rehabilitation funding for housing from the Housing Opportunities for People With AIDS program, the program may limit eligibility for the project to persons with HIV/AIDS and their families. An individual or a family that includes an individual with a disability may be denied occupancy if the individual or at least one member of the family does not have HIV/AIDS.

- In another example, a private, nonprofit organization applies for and receives Continuum of Care funds from a local governmental entity to rehabilitate a five-unit building, and provides services including assistance with daily living and mental health services. While the nonprofit organization intends to target and advertise the project as offering services for persons with developmental disabilities, an individual with a severe psychiatric disability who does not have a developmental disability but who can benefit from these services cannot be denied.

- Project based assistance
  - Housing authorities may give preference to families that include a disabled person who need services offered at a particular project. This preference is limited to people whose disabilities significantly interfere with their ability to obtain and maintain themselves in housing without appropriate services and for whom services cannot be provided in an integrated setting.
  - however, the project must be open to all otherwise eligible people with disabilities who may benefit from those services.

- Housing choice vouchers
  - Housing authorities may adopt a preference for admission of families that include a person with a disability.
  - housing authority may not adopt a preference for admission of people with a specific disability.
**Definition of Family or Parental Status:** the presence of one or more children under the age of 18 in a household

**Includes:**
- Parent, step-parent, adoptive parent, guardian, foster parent or custodian with a minor child
- Pregnant woman or someone in the process of acquiring legal custody of a child

**Exceptions**
- Note on serving family domestic violence survivors

**Exceptions:**
- The size of the individual unit or sleeping area is only sufficient for a single individual, such as a SRO apartment or a cot in a dormitory.
- The housing is designated only for older individuals.
- Housing targeted at individuals being released from correctional institutions. Housing designated for sexual offenders may be able to discriminate against families with children. Providers wishing to exclude families with children should check with their legal counsel.

**Note on Family DV Survivors:**
- Providers who house DV victims and their children should not refuse to house women with sons under 18.
- If there are not shared sleeping or bathing areas or shared bathrooms, such policies are probably illegal. Where there are shared sleeping or bathing areas, providers should consider if there is any way to modify floor plans to provide privacy.
- If a family is turned away because of teenaged sons and they are not provided with alternative lodging/necessary services, that family would be considered a victim of discrimination.
• There may be compelling reasons due to privacy program requirements for excluding adult men from domestic violence shelters.
• Communities should have a mechanism in place for serving male domestic violence victims in an alternative fashion -- for example, providing motel vouchers with counseling services.


Screening & Admissions Criteria

• Landlords should have clear objective, consistent written criteria
• Landlords should avoid screening using subjective factors that require assumptions

Objective or fact based criteria include:
• Rental history --Including stays in shelters, hospitals and other alternative housing arrangements.
• Amount of income--Providers cannot discriminate against applicants based on their source of income, such as SSDI or child support, so long as the income is not derived from illegal activity.
• Observable behavior--An applicant can be rejected for acting in a violent manner towards a staff person handling the screening/intake.
• Recommendations by identified referral agencies programs--Such as social services, mental health, law enforcement, etc., so long as these programs do not have discriminatory practices and the recommendations are based on objective criteria.

Subjective factors to avoid:
• “Odd” behaviors (as opposed to behaviors that present a threat to others).
• An “intuitive sense” of an applicant’s willingness to commit to a program, get along with others, etc. Such an assessment must be based on objective facts. For example, don’t assume someone who doesn’t look you in the eye is “shady” or untrustworthy. An applicant cannot be rejected based on a “gut feeling” that the
individual might become violent if the person has not exhibited any behavior to suggest this. People from different cultures or with various disabilities may have behaviors that uninformed staff could interpret incorrectly. All providers should consider awareness training in these areas.

- Individuals with some disabilities or gender identities may pose some challenging situations, such as the need for private restrooms. If a problem develops after the person moves in, it should be addressed at that time.
A change, exception, or adjustment to a rule, policy, practice or service, which may be necessary to afford an individual with a disability an opportunity to use and enjoy housing or services.

- Determined on a Case-by-Case Basis
- Factors for Denial:
  - Undue Financial and Administrative Burden (Based on an individualized assessment of costs to make the accommodation and resources and staff of the provider)
  - Fundamental Alteration of the
Nature of Provider’s Operation
▪ Example – requesting the provider administer medication to a resident.
▪ Requesting an assistance animal in a no pet building is NOT a fundamental alteration.
▪ Direct Threat to Health and Safety
Must be based on objective evidence. Example – the dog in Apt. 3A is exhibiting aggressive behavior.
Assumptions and fears are not enough. Example – the dog in Apt. 3A is a pit bull which is an aggressive breed.
Reasonable Accommodations

• Must be relationship between requested accommodation and individual’s disability
• Request can be oral or in writing
• Some medical documentation may be requested—what can providers ask for?

If the disability is obvious and the need for the requested accommodation is readily apparent, you may NOT request any additional information.
• Example: A resident who uses a walker requests a parking space near the building entrance. Both the disability and the need are known.

If the disability is obvious, but the need for the accommodation is not readily apparent, you may request only information necessary to evaluate the disability-related need for the accommodation.
• Example: A resident in a wheelchair requests an assistance animal in a no pet building. The disability is known but the need is not obvious.

Permissible Verification Options:
1. Proof that the person receives Social Security Disability Benefits or other disability based government benefits.
2. A letter from a healthcare provider.
It is up to the requestor which type of proof he/she chooses to submit. A letter can be from any type of doctor, nurse, therapist or social worker.
No difference under law between service and emotional support animals. Same analysis applies.

**Structural modifications:** A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

Examples of structural modifications:

- Installing Ramps
- Widening Doorways
- Lowering Kitchen and Bathroom Cabinets
- Lowering Light Switches
➢ Raising electrical outlets
➢ Grab Bars/Toilet Extensions
➢ Strobe Lighting

May a housing provider charge an extra fee or require an additional deposit or insurance from disabled applicants or tenants as a condition of granting a reasonable accommodation?
No. Housing providers may not require persons with disabilities to pay extra fees or deposits or to obtain additional insurance as a condition of receiving a reasonable accommodation.
The person making the request pays. Tenant must return dwelling to original condition unless it does not interfere with operations or would benefit future tenant. Except if unit is in federally funded unit, then recipients of federal funds, such as housing authorities, must pay.
**Other Fair Housing Laws**

- Section 504 of Rehabilitation Act & Age Discrimination Act
  - Includes homeless shelters, social service agencies
- Title VI of the Civil Rights Act of 1964
  - Prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
- Americans With Disabilities Act (ADA)
  - Title II: State and local government activities
  - Title III: Public accommodations

**Section 504**

- Prohibits discrimination against individuals (and students) with disabilities
- Federal laws covering any program or activity that receives federal funds
  - Includes government & housing
providers that receive federal funds
Americans with Disabilities Act (ADA), Title III
• Federal law covering privately owned public accommodations if operation affects interstate commerce

Title VI of Civil Rights Act
Requires federally-funded programs to identify the need for their services among those with limited English proficiency (LEP) and to develop and implement strategies to provide “meaningful access” to their services among these population groups. (For details on how to undertake this process, visit the LEP website at www.lep.gov.)

What is not federal funding?
• Low Income Housing Tax Credits (LIHTC) are not federal financial assistance if the property receives no other federal financial assistance.
• Section 8 vouchers are not a federal subsidy if the property receives no other federal financial assistance.

ADA Title II: Public Transportation
The transportation provisions of title II cover public transportation services, such as city buses and public rail transit (e.g. subways, commuter rails, Amtrak). Public transportation authorities may not discriminate against people with disabilities in the provision of their services. They must comply with requirements for accessibility in newly purchased vehicles, make good faith efforts to purchase or lease accessible used buses, remanufacture buses in an accessible manner, and, unless it would result in an undue burden, provide paratransit where they operate fixed-route bus or rail systems. Paratransit is a service where individuals who are unable to use the regular transit system independently (because of a physical or mental impairment) are picked up and dropped off at their destinations.

ADA Title III: Public Accommodations
Title III covers businesses and nonprofit service providers that are public
accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities. Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by title III.

Public accommodations must comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment. They also must comply with specific requirements related to architectural standards for new and altered buildings; reasonable modifications to policies, practices, and procedures; effective communication with people with hearing, vision, or speech disabilities; and other access requirements. Additionally, public accommodations must remove barriers in existing buildings where it is easy to do so without much difficulty or expense, given the public accommodation's resources.
Best Practices for Housing Providers

• Get staff up to speed on what is permissible and what is discriminatory.
• Ensure all policies avoid subjective determinations or practices that may be improperly limiting access to resources or services or that are intentionally or unintentionally discriminatory.
• Develop a Reasonable Accommodation policy and be sure all staff, particularly intake staff, are aware of it.
• Assess your facility’s accessibility, make whatever improvements you can afford to make.

Complaints/Enforcement judicially (court filing) or administratively (filing of HUD complaint)

Note on AFFH and promoting fair housing in case it comes up:
https://www.hudexchange.info/programs/affh/

Affirmatively Furthering Fair Housing (AFFH)
Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD’s AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken
together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.”

This year HUD delayed AFFH citing need for jurisdictions to learn how to use the AFFH tools and report required for some local governments. This issue is now under litigation. However, information on the rule is still online on their website as of October 11, 2018.
Rasheedah Blake
Youth Housing Program Director
Rainbow Community Center
rblake@rainbowcc.org
(925) 692-0090 ext. 302

Jaime Jenett
CoC Planning and Policy Manager
Contra Costa Health, Housing and Homeless Services
Jaime.jenett@cchealth.org
925-608-6716
A Message from Harriet Tregoning,
Principal Deputy Assistant Secretary for Community Planning and Development

I am pleased to inform you that we have reached an important milestone in HUD efforts to ensure equal access for all persons in our programs. On September 21, 2016, HUD will publish a final rule in the Federal Register entitled Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs.

This rule will ensure that all individuals have equal access to many of the Department’s core shelter programs in accordance with their gender identity. This rule becomes effective October 21, 2016.

I encourage all CPD grantees to promptly review their policies to ensure consistency with the new rule.

Following what had previously been encouraged practice by HUD, providers using funds awarded through the Department’s Office of Community Planning and Development (CPD), including those operating single sex projects, are now required to provide all individuals, including transgender individuals and other individuals who do not identify with the sex they were assigned at birth, with access to programs, benefits, services, and accommodations in accordance with their gender identity without being subjected to intrusive questioning or being asked to provide documentation.

HUD’s new rule will require a recipient, subrecipient, or provider to establish, amend, or maintain program admissions, occupancy, and operating policies and procedures (including policies and procedures to protect individuals' privacy and security), so that equal access is provided to individuals based on their gender identity.

Other provisions and changes to the rule include:

- Eliminates the prohibition on inquiries related to sexual orientation or gender identity so service providers can ensure compliance with this rule. The removal of the prohibition on inquiries related to sexual orientation or gender identity does not alter the requirement to make housing assisted by HUD and housing insured by the Federal Housing Administration available without regard to actual or perceived sexual orientation or gender identity.
- Amends HUD’s definition of “gender identity” to more clearly reflect the difference between actual and perceived gender identity.
- Makes a technical amendment to the definition of “sexual orientation,” which was adopted from the Office of Personal Management’s (OPM) definition of the term in 2012 to conform to OPM’s current definition.
- NOTE: the definition of “family” remains the same. See FAQ 1529 for specific guidance for projects with CoC and ESG funding.

As a new program regulation, failure to comply with the requirements of this rule will be considered a violation of program requirements and will subject the non-compliant grantee to all sanctions and
penalties available for program requirement violations. HUD has provided a suite of Technical Assistance materials to support final rule implementation, which can be found at https://www.hudexchange.info/homelessness-assistance/resources-for-lgbt-homelessness/.

HUD has also provided a document that grantees can publicly post to inform clients and staff of the equal access requirements, which can be found at https://www.hudexchange.info/resource/5147/notice-on-equal-access-rights/.

HUD is planning to conduct trainings and provide additional TA materials to assist HUD grantees in understanding the new rule and implementing the policies and procedures appropriately. As these resources become available, you will be able to access them on the LGBT Homelessness Resource Page.

Find more information on HUD’s broader work for LGBTQ inclusion in HUD’s programs at http://portal.hud.gov/hudportal/HUD?src=/LGBT_resources. Please direct any questions regarding this rule and any requests for technical assistance to your local CPD representative.
### Supporting Equal Access Across the Full Spectrum of Services

#### Encouraging

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A staff person accepting the name and gender given by the potential client.</td>
<td>The staff person uses the pronouns as indicated by the client. This allows the person to feel more comfortable and continue in the outreach and engagement process.</td>
</tr>
<tr>
<td>A staff person accepts and uses the client’s preferred name and gender pronouns regardless of institutional documents or sex-assigned at birth. This allows the client to feel more comfortable and complete the assessment process.</td>
<td></td>
</tr>
<tr>
<td>Staff model appropriate respect and coach clients that express verbal and non-verbal disrespect.</td>
<td>Staff provide confidential space to allow clients to discuss issues related to harassment or other concerns connected to their current gender expression within the project.</td>
</tr>
<tr>
<td>A staff person recognizes the client’s right to access all services for which they are eligible.</td>
<td>A staff person quickly resolves conflicts severe enough to warrant the expulsion of a harassing client.</td>
</tr>
</tbody>
</table>

#### Discouraging

<table>
<thead>
<tr>
<th>Scenario</th>
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</tr>
</thead>
<tbody>
<tr>
<td>A staff person rejecting the client’s name or gender based on assumptions of the person’s name or sex-at-birth.</td>
<td>Asking probing questions not necessary for engaging the individual. The individual may feel unsafe and choose to leave before outreach/engagement is complete.</td>
</tr>
<tr>
<td>A staff person using the incorrect pronoun after the client has given their preference.</td>
<td>Using the incorrect pronoun after the client has given their preference.</td>
</tr>
<tr>
<td>A staff person only makes referrals to projects that the staff thinks will accept the client due to inappropriate perceived barriers.</td>
<td>A staff person does not respect the client’s assessment of what feels safe to them when determining the referral options.</td>
</tr>
<tr>
<td>A staff person promotes non-discrimination by ensuring all clients understand that verbal and physical bullying are not allowed.</td>
<td>A staff person ignores reasonable requests for accommodation in bed assignments based on a client’s health and safety concerns.</td>
</tr>
<tr>
<td>A staff person turns away a potential client based on their gender expression.</td>
<td>A staff person treating a client in a way that violates the individual’s confidentiality around gender expression.</td>
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</tbody>
</table>

#### Outreach/Engagement

<table>
<thead>
<tr>
<th>Scenario</th>
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</thead>
<tbody>
<tr>
<td>A staff person accepting the client’s confidentiality.</td>
<td>The staff person uses the pronouns as indicated by the client. This allows the person to feel more comfortable and continue in the outreach and engagement process.</td>
</tr>
<tr>
<td>A staff person accepts and uses the client’s preferred name and gender pronouns regardless of institutional documents or sex-assigned at birth. This allows the client to feel more comfortable and complete the assessment process.</td>
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</table>

#### Assessment

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Providing a confidential area to describe services that the client may want to access to ensure the client’s confidentiality.</td>
<td>The staff does not ask about the client’s sex-assigned at birth during the intake process.</td>
</tr>
<tr>
<td>A staff person at a project that segregates services based on gender accepts the client whose gender expression does not fit the stereotypical gender expression.</td>
<td>A staff person at a project that segregates services based on gender accepts the client who identifies with that gender.</td>
</tr>
</tbody>
</table>

#### Referral

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A staff person only makes referrals to projects that the staff thinks will accept the client due to inappropriate perceived barriers.</td>
<td>A staff person does not follow-up with the receiving agency to make sure they are not discriminating against the client and turning them away.</td>
</tr>
<tr>
<td>A staff person provides information to the receiving project that discloses the client’s transgender status without the client’s consent.</td>
<td>A staff person does not respect the client’s assessment of their safety and tries to encourage them to go to a shelter that will make them “more comfortable” based on the staff person’s perceptions.</td>
</tr>
</tbody>
</table>

#### Enrollment

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A staff person ignoring reasonable requests for accommodation in bed assignments based on a client’s health and safety concerns.</td>
<td>A staff person ignores reasonable requests for accommodation in bed assignments based on a client’s health and safety concerns.</td>
</tr>
<tr>
<td>Staff move the more compliant client when conflict arises even if that client was the subject of harassment.</td>
<td>A staff person moves the more compliant client when conflict arises based on the client’s gender identity.</td>
</tr>
</tbody>
</table>

#### Unit/Bed Assignment

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>A staff person turns away a potential client based on their gender expression.</td>
<td>A staff person treating a client in a way that violates the individual’s confidentiality around gender expression.</td>
</tr>
<tr>
<td>A staff person turns away a potential client based on their gender expression.</td>
<td>A staff person does not respect the client’s assessment of what feels safe to them when determining the referral options.</td>
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</tbody>
</table>

#### Ongoing Service Provision

<table>
<thead>
<tr>
<th>Scenario</th>
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</thead>
<tbody>
<tr>
<td>A staff person does not take a transgender client’s safety concerns seriously and fails to address them.</td>
<td>A staff person does not take a transgender client’s safety concerns seriously and fails to address them.</td>
</tr>
<tr>
<td>A staff person fails to intervene when a client is harassing someone based on their gender expression.</td>
<td>A staff person fails to intervene when a client is harassing someone based on their gender expression.</td>
</tr>
</tbody>
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**Outreach/Engagement**

- When referring a client to a single-sex or sex segregated project, the staff person offers to assist the client to ensure they are able to access services for which they are eligible.
- Encouraging engagement process.
- Continue in the outreach and engagement process.
- Staff model appropriate respect and coach clients that express verbal and non-verbal disrespect.
- Listening to and respecting the client’s assessment of what feels safe to them when determining the referral options.
- A staff person offers to assist the client to ensure they are able to access services for which they are eligible.
- Supporting Equal Access Across the Full Spectrum of Services
Kelly: You know she shouldn’t even be allowed to stay in my room; she’s not even a girl!

Dan: What do you mean?

Jennifer: Kelly, could you come speak with me now in the staff office?

In the staff office:

Jennifer: I heard you say that one of your roommates isn’t a woman and should not be allowed to stay in the women’s rooms. Can I ask to whom you are referring?

Kelly: Please! You know which one.

Jennifer: The staff is very careful to ensure that all clients assigned a bed are eligible to be here, have nowhere else to go and follow the rules. There is no one in the women’s section who doesn’t belong there.

Kelly: That’s not fair. She is a guy and makes me really uncomfortable. She shouldn’t be allowed to stay in my room.

Jennifer: Staff may use any room at this shelter to serve people who need our help. No room or bed belongs to an individual client. If you have specific concerns regarding a resident, I’m happy to work with you to resolve them; however, if you are still uncomfortable here, we may not be able to meet your needs.

Kelly: I’m worried she’s watching me undress when I get ready for bed. It reminds me of another situation in my past. I have a really hard time falling asleep when I’m reminded of it.

Jennifer: I know it’s tough to share things like that; thank you for trusting me. Let’s talk about how you and I can help you feel safer without focusing on any other client. Maybe you could use the private single bathroom when you change for bed? Please remember, it is a violation of the rules to harass anyone or use derogatory terms. It can really make people who need our help feel unwelcome, intimidated and excluded. If you were on the receiving end of that treatment, you can imagine how unsafe you might feel. If it happens again, we’ll have to talk about whether this project is the right fit for you.
These steps supported non-discrimination, respecting individuals and confidentiality

» The staff person intervened quickly once Kelly and Dan’s conversation violated the rule to respect all individuals.

» The staff person preserves confidentiality by pulling Kelly aside to discuss the matter privately.

» The staff person respects Kelly’s feelings of discomfort and acknowledges the difficulty of sharing honestly.

» The staff person upholds anti-discrimination standards by not moving the transgender client.

Discussion points about harassment

» Both staff and clients may request considerations be made for health and safety reasons.

» These risk-based conversations must correct any misinformation or inaccurate conclusions that transgender clients threaten the health or safety of other clients solely based on their non-conforming gender expression.

» Staff should not reassign beds or services based on a client’s gender expression or status as transgender. Staff should instruct concerned clients to concentrate on their own needs and service plans rather than focusing on the details of fellow clients.

» A project has a few options to address issues of harassment. When possible, staff should move the perpetrator to another space in the shelter, rather than the harassed individual. Staff could also offer a harassed individual the opportunity to relocate but this offer may have unintended consequences. Removing the harassed individual from a space shared with the perpetrator can reinforce negative shelter behaviors, i.e. support the notion that “if I harass this person, they will get moved and I can stay in my space.” Expelling perpetrators may be necessary in certain instances but shelter operators and staff should attempt to address a situation through education and moving within the shelter before considering removal from the shelter altogether. In all cases, shelters should rely on existing policies and procedures regarding violent or threatening behavior.

Questions to consider

» Have you experienced similar situations with clients?

» Did the resolution meet the expectations established by the Equal Access Regulation?

» What if things escalated, and Kelly harassed or threatened her roommate? How would one resolve this conflict?

Ideas for Intervening

» “I need you to stay focused on your own progress. Everyone at this shelter needs to be here and is eligible for services. Please don’t become distracted.”

» “Every client here needs to be here. If you are so uncomfortable, this may not be the right place for you. Let’s discuss some other options for you.”

» “The staff is responsible for enforcing the rules here. If you are concerned that someone is violating a specific rule, please explain so I can help.”
### TRAINING SCENARIO

**Equal Access Expectations**

Setting: A large urban shelter uses mass check-in procedures that incorporate swipe cards or other methods to quickly assign an individual a bed. June enters a small men’s congregate shelter and walks up to the front desk. The front desk staff person, Mark, greets June.

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<table>
<thead>
<tr>
<th>Mark:</th>
<th>Hi, can I help you?</th>
</tr>
</thead>
<tbody>
<tr>
<td>June:</td>
<td>Yes, I need a place to sleep tonight. I’ve been here before.</td>
</tr>
<tr>
<td>Mark:</td>
<td>Let me check your record in HMIS.</td>
</tr>
<tr>
<td>June:</td>
<td>You should look under Jason Smith. I was using my birth name, Jason.</td>
</tr>
<tr>
<td>Mark:</td>
<td>(searches the HMIS for Jason Smith) I found your record; do you want to go by June in the system?</td>
</tr>
<tr>
<td>June:</td>
<td>Yes, that would be great. Can you also change my gender to female?</td>
</tr>
<tr>
<td>Mark:</td>
<td>Yes, I will do that now.</td>
</tr>
<tr>
<td>Mark:</td>
<td>You may remember, our sleeping arrangement provides a cot in a large single room with 20 male clients and we have shared showers and bathrooms. We have a non-harassment policy, which I will discuss in a minute, but do you have any concerns about this arrangement? Since your current gender expression is female, you are eligible for services at the women’s shelter. I can try to connect you with them if you want.</td>
</tr>
<tr>
<td>June:</td>
<td>No, I want to stay here tonight if that’s okay.</td>
</tr>
</tbody>
</table>

*Mark accepts June into the shelter and discusses the non-harassment policy.*
These steps supported non-discrimination, respecting individuals and confidentiality

» The staff person demonstrates respect for the client by using the client’s preferred name and gender and altering the system records to reflect this.

» The staff person promotes non-discrimination by adhering to the HUD gender data element policy, which does not require that gender be the client’s sex assigned at birth or what is displayed on their ID.

» The staff person recognizes the client’s right to access a shelter consistent with either their gender expression or their sex assigned at birth.

Discussion points about harassment

» Staff should not exclude a client from a sex-segregated shelter based on their gender expression or status as transgender.

» Staff may not compel a client to find other accommodations based on a staff member’s opinion of which housing options are best suited to a client. Staff should respect client’s assessments of their own safety and needs.

Questions to consider

» Have you experienced similar situations with a client at intake?

» How did you handle it and was it consistent with the expectations created by the Equal Access Regulation?

» How does staff at your facility ask about and enter name and gender information into your Homeless Management Information System? Is it in consistent with these standards?

» What if June had not offered her birth name to Mark? How would this scenario look different but still be consistent with the expectations created by the Equal Access Regulation? How would Mark confirm with any client that the shelter is designated a men’s shelter and also welcomes individuals that were assigned male at birth but currently identify as female?
Brian: ID please.

Travis hands over the ID. Brian looks at the ID and sees that the gender marker on the ID does not match Travis’s appearance but that it is a photo of Travis. Brian directs Travis to the assigned bed. Later in the evening, Brian, ensuring no other clients are within earshot, follows up with Travis.

Brian: You’re all set, but I wanted to let you know that we have staff member that can help if you want to change the information on your ID card. Let me know.

Travis: Maybe, I’ll think about it.

While HUD discourages requiring identification as a prerequisite for intake at a shelter or project, some projects continue to do so. This training scenario provides an example of complying with local requirements and the Equal Access Rule.
These steps supported non-discrimination, respecting individuals and confidentiality

» The staff person demonstrates respect for the client by accepting their ID without calling attention to the difference in current gender expression. The staff appropriately confirms the ID matches the client, and then returns it.

» The staff person preserves the client’s confidentiality by not asking questions about the ID in line where other clients might overhear.

» The staff person correctly admits the client to the project though the client’s current gender expression does not match the gender marker on their ID.

» Lack of accurate identification can be a major barrier to receiving services, enrolling in community projects and applying for benefits. Many shelters make obtaining replacement ID an initial step in any case plan. Similarly, staff should offer support correcting identification that has an inaccurate gender marker.

Discussion points about harassment

» Identification that records a client’s sex assigned at birth inconsistent with their current gender identity should not be used as a reason to decline services to an otherwise eligible client.

» Staff should encourage clients without ID to obtain identification, as this is a required document for obtaining employment, accessing benefits and many other services important to self-sufficiency.

» Staff should carefully explain the delays and costs associated with formally altering the gender marker on identification, including delays to obtaining Social Security benefits, employment eligibility verification or other processes. Clients should be given information to make an informed choice about if or when they will initiate the process of legally changing their gender marker.

Questions to consider

» Have you experienced similar situations with clients?

» Were they resolved according to the expectations established by the Equal Access Regulation?

» Does your agency require clients to present ID and if so, what funding stream or law requires this? Why are they required? Are there exceptions?

» If a client wants to change their ID, how would you help them? What resources are available?
Amanda: I need to talk to you. I’m having a problem with some of the other ladies.

Mary: Let’s go into the office where we can have some privacy.

Mary takes Amanda into one of the counseling rooms.

Amanda: I’m having a problem with the bathroom. The other women are keeping the door open and I have no privacy. I really need to have the door closed, but I don’t want to confront them. It’s hard enough here without everyone thinking I want special treatment.

Mary: We can handle this without disclosing anything about our conversation. Shelter policy is that the bathroom door should stay closed, so it’s not really about you complaining — staff should pay more attention to the door. We really want you to be successful here. Let me know if there’s anything else you need.

During the evening house meeting, staff members discuss the importance of respecting and supporting one another’s privacy in a congregate setting and have the group brainstorm ways to ensure privacy. Mary acknowledges the staff hasn’t been doing a great job of enforcing the rule regarding the bathroom door and commits to enforcing it more consistently. Amanda’s concern is not mentioned at all during the group conversation.
These steps supported non-discrimination, respecting individuals and confidentiality

» The staff person demonstrates respect for the client by taking her concerns seriously and addressing them.

» The staff person preserves confidentiality by privately discussing the issue with the client and resolving it without revealing her complaint to other clients.

» The shelter employs gender inclusive language in project material and pamphlets. This assures clients that they can bring concerns to staff and will be heard with respect.

Questions to consider

» Have you experienced similar situations with clients?

» What techniques (house meeting, individual follow up, etc.) allow staff members to address these issues without breaking clients’ confidentiality?

» How does your shelter encourage clients to report harassment and how does it promote a safe environment?

» How does your shelter create a safe atmosphere within bathroom and shower facilities that respect client modesty?

Discussion points about harassment

» The perceived “unfair” distribution of privileges may draw further unwanted attention to a transgender client, or any client. In such cases, staff should intervene by redirecting or resolving complaints raised by other clients without reviewing the staff decision, as it may touch on confidential aspects of another client’s life. There are a variety of resolutions that may be perceived as special treatment for any client. Staff must be careful to implement policies fairly and consistently to reinforce that all clients can expect the same treatment from staff.

Ideas for Intervening

» The difference between an individual’s gender identity and their sex assigned at birth is confidential medical information.

» If a transgender client has chosen not to disclose their trans status, then staff must respect this decision.

» Staff and residents should not expect a client that is a member of a marginalized population to educate others about their community. Shelters should provide staff access to educational resources, and is the staff member’s professional obligation to use these resources if they require additional information to meet the shelter’s goals.
5

TRAINING SCENARIO

Equal Access Expectations

Setting: A 5-bed transitional living program for young adults, ages 18 to 24. Alex, 18, is questioning their gender identity and has chosen to use the pronouns they/them/their to indicate not being aligned with either end of the gender spectrum. Their gender expression is neutral and the housemates have been giving them a hard time. Staff member, Susan, has her office door open and hears the following conversation:

<table>
<thead>
<tr>
<th>Trish:</th>
<th>Alex, why were you in the girl’s bathroom? You dress and act like a guy. None of us even want you around.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alex:</td>
<td>Whatever, I can be where I want. Get out of my face.</td>
</tr>
<tr>
<td>Susan:</td>
<td>Susan steps out, sees that Trish is physically close to Alex, and that she is blocking the hallway. Several girls are standing around them.</td>
</tr>
<tr>
<td>Susan:</td>
<td>Trish, this conversation is over. You’re in Alex’s physical space and blocking the hallway. The staff explained the house rules to you when you got here. This is unacceptable. I want you to talk to your counselor tonight. Picking on someone else is disrespecting everyone in the program and the staff.</td>
</tr>
<tr>
<td>Susan:</td>
<td>Everyone, you have things you should be doing. Go do them.</td>
</tr>
</tbody>
</table>

Once the hall clears out, Susan checks in with Alex to see how they’re doing and underscore that the shelter wants this to be a safe environment for them and for everyone staying there. Susan reminds Alex that recognizing and expressing gender identity is Alex’s choice and assures them that they are welcome at this shelter regardless of their decision to disclose or not disclose any part of their identity.
These steps supported non-discrimination, respecting individuals and confidentiality

» The staff person upholds project rules by intervening quickly to stop Trish’s verbal and physical harassment.

» The staff person preserves confidentiality by having a private conversation with Alex to discuss the impact and support their safety.

» The staff person promotes non-discrimination by ensuring all of the clients understand that verbal and physical bullying are not allowed, are violations of the project rules and show disrespect to the entire community.

» The staff person discusses safety concerns with the client and recognizes it is Alex’s right to access services they are eligible for.

Questions to consider

» Have you experienced similar situations with clients?

» Were they resolved in accordance to the Equal Access Rule?

» If things escalated, what would result in Trish’s expulsion from this shelter and how would that be handled?

Discussion points about harassment

» A client may initiate a discussion with staff regarding the inaccurate perception that another client’s gender expression threatens their health or safety. It is important to both educate clients and maintain all clients’ confidentiality. No discussion should be about specific individuals in the shelter. Staff can use this opportunity to discuss the priorities of the project, to serve everyone who is eligible, to reinforce that staff are responsible for safety and are careful only eligible clients are enrolled, or to review the complaining client’s case plan and refocus their attention to making progress moving out of shelter.

» Policies permitting requests for new bed or service assignment differs from project to project. If your project regularly moves people around, then consider more flexible policies. If, however, your project is unable to accommodate these requests without creating a heavy burden, policies may need to be less flexible.

Ideas for Intervening

» “Okay everyone, let’s remember that this shelter is a place where everyone is welcome. If you make someone feel out of place or encourage them to leave, we may have to ask you to leave the project.”

» Remind specific individuals of their chores or obligations for the evening to break up a social interaction.

» Ask two or three members of the group to meet privately in the staff office immediately. Discuss the rules for respecting everyone at the shelter and review their signed conduct agreements while pointing out the conversation you just witnessed was inconsistent with this agreement.
Setting: An emergency shelter project that houses 15 families in a large renovated home with shared kitchen and bathroom facilities. Project staff support families to move into more permanent arrangements throughout their 90-day stay. Each shift has a manager onsite throughout the shift. Shift manager Ahmad receives a knock on his open office door, and Jack, a resident, walks in.

Jack: Hey, can I talk to you?

Ahmad: Sure, come on in. Take a seat, what’s up?

Jack: Listen, I don’t want to get anyone in trouble. We really appreciate that you guys were here to take us in and I don’t want to cause any waves…

Ahmad: No, please. If there’s some problem we really need to know. There are lots of families that depend on this project. If there’s an issue, I definitely need to know. I’m sure we can figure it out and for most things I can keep your concern confidential.

Jack: Thanks, I really appreciate that. It’s Joanna, our case manager. She’s giving Ben a hard time.

Ahmad: Your son? He’s 13, right?

Jack: Well, you know how we told you Ben was born Megan and later we found out he identified as a boy? It created a lot of problems in his old school and it’s part of the reason why we moved here without a job or anything. So I felt like I should tell the staff all this in case there was a problem, but I didn’t expect the staff itself to be the problem.

Ahmad: What happened?

Jack: Well, she keeps implying that Ben might be happier doing girl things. At first my wife and I didn’t notice; we thought she was just encouraging Ben to play with the other kids. But then we realized she was only encouraging Ben to play with the girls, and only spoke up to encourage him to do activities when there was a group of girls playing. It’s not like she’s blatantly challenging how we’re raising Ben, but we’re worried that’s where this is headed. It was hard enough going through this the first time; my family doesn’t need someone putting Ben through the wringer again. He’s just getting settled at school and making friends. I really don’t want any problems.

Continued
Ahmad: I really appreciate you bringing this up with me. From here I’m going to follow up with Joanna and address these issues with her directly. I may not be able to discuss with you the specific solution I decide since Joanna is an employee and has a right to confidentiality, but, if this continues, I want you to alert me or the manager on duty as soon as you’re comfortable.

On Joanna’s next shift, Ahmad schedules a meeting with Joanna.

Ahmad: Hey, thanks for making time to meet, I know things are really hectic right now with a full house.

Joanna: No problem, what’s up?

Ahmad: I wanted to touch base on the Ramirez family. How are things going? You’re their case manager right? Are they settling in ok? Any concerns at this point?

Joanna: It’s funny you should mention them. I actually do have some concerns. You may not have known but their oldest, Ben — well she’s really a girl. They’re raising her as a boy but that’s creating all kinds of problems for her. I’ve been trying to help her get more comfortable here with some of the other girls but I think we should be doing more.

Ahmad: Joanna, I think we should review the guidelines around what family issues concern staff and which ones are up to the mom and dad to figure out. We get lots of different kinds of families here as you know. Sometimes it can be tough to see a family struggle with any challenge but we have to really careful about how we become involved.

Joanna: Well, I think it could be child abuse. I mean, look — how is she going to be successful in life if they’re doing this to her?

Ahmad: Joanna, I appreciate that you are concerned about Ben, like we all are concerned about all our clients. You know they are working closely with their doctor on this from the case notes I read and that they had a meeting with the principal at the school to make sure there wouldn’t be any issues. If you are concerned about any abuse within this shelter our protocol requires you report it to the shift manager or page the project manager. What specifically do you think is endangering Ben? He seems like he’s doing well from my interactions and the daily logs I’ve read.

Joanna: We need to show parents how to raise their kids. It’s part of what we do all the time here; teach them how not to hit their own kids; how to feed them nutritious meals; how to read to them when they’re little. You know, it’s one of those basic things.
Ahmad: I think it’s great that you’re concerned about Ben’s well-being. Actually for kids experiencing gender identity challenges, most mental health experts now believe that the best approach is affirming the young person’s feelings and letting them have the time and space to figure out the issues. In some cases, that means supporting them in living as the gender they feel they are. I can pull some articles for you on the issue and I can email you a link to a great documentary on the subject. But to be clear Joanna, this issue is very much outside of our purview as staff at a shelter. Ben’s parents are working closely with both his school and doctor to ensure he’s making healthy choices. Moving forward you need to focus on the milestones established in their case plan and not second-guess Ben’s parents as long as he seems to be doing well, ok?

Joanna: You think this is okay to allow this to happen at the shelter?

Ahmad: Regardless of what I think, as a staff member at this project, I know we have very clear rules on what is appropriate to work on with our clients and what is not. If it’s helpful we can review those guidelines and make a plan for moving forward with the Ramirez’s. I can also do some shuffling and assign the Ramirez’s to someone else if you would prefer that.

Joanna: You’re right. I got hung up on something that wasn’t my business. I think I can keep working with them if you’re ok with it? I’ll read these articles and get back to you if I have any questions.
These steps supported non-discrimination, respecting individuals and confidentiality

» The project had literature, guidelines and intake forms that let the client know it would be safe to bring his concerns to the shelter manager.

» The manager heard the client’s concerns and confirmed that the staff person’s actions were not appropriate. The manager also indicated that some issues would not be covered by confidentiality (issues related to the imminent harm of an individual trigger mandated reporting requirements) and that the employee’s own right to confidentiality may prevent him from following up with the family to relay the result.

» The manager was able to initiate the discussion with the employee without disclosing the underlying complaint. Depending on a client’s preference, the nature of the complaint, and appropriate personnel action, this may not always be possible. Being clear with a client about the limitations of confidentiality ensures there is no unexpected disclosure or action taken by management. If management must act based on the nature of the complaint even when contrary to a client’s preference, acknowledging the decision and the client’s frustration may help alleviate some of their dissatisfaction.

Questions to consider

» If you were in Jack’s position, is there another way he could have handled the problem?

» Did Ahmad choose the right approach to discuss the concern with Joanna?

» What if Joanna had not been forthcoming about her concerns about Ben’s gender? How could Ahmad have brought up Jack’s complaint about Joanna’s behavior?

» Is there anything you would have done differently?
Erin: Hey, thanks for talking with me. I just don’t feel safe with him sharing my room. You know? I mean it’s all been looks and refusing to talk to me but it feels like something’s going to blow. I don’t know what to do; can you help?

(fill in the blank)

You:
These steps supported non-discrimination, respecting individuals and confidentiality

» If Erin is a transgender client reporting a conflict with a roommate, how will you approach the situation?

» If Erin’s roommate has disclosed being transgender to other clients, how will you approach the situation?

Questions to consider

Ideas for Intervening
Equal Access for Transgender People
Supporting Inclusive Housing and Shelters
Acknowledgements

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The authors are solely responsible for the accuracy of the statements and interpretation contained in this publication. Such interpretations do not necessarily reflect the views of the Government. The substance and findings of the work are dedicated to the public.

All materials in this work are in the public domain and may be reproduced or copied without permission from the US Department of Housing and Urban Development. Citation of the source is appreciated. However, this publication may not be reproduced or distributed for a fee without the specific written authorization of the Office of Special Needs Assistance Programs, Community Planning and Development, US Department of Housing and Urban Development.
Requirements of the Equal Access Rule

Individuals and families seeking services from HUD funded homeless projects have nowhere else to go. In fact, this is one of several criteria HUD established for individuals and families in need. Too many LGBT youth and adults meet this standard and have nowhere to turn other than a HUD funded project. Acknowledging their need for assistance and seeking help is often its own struggle for those who have sacrificed much simply to recognize themselves. Among homeless youth, a population estimated annually somewhere between 400,000 and 2.8 million, LGBT youth are significantly overrepresented, accounting for up to 40% of the population.¹

Transgender individuals in particular are impacted by violence and discrimination in ways that both contribute to their homelessness and keep them from accessing necessary shelter and services. One in ten transgender individuals report being evicted based on their gender expression. One in five reports being denied an apartment or home based on gender expression. Even when seeking shelter, transgender individuals are at significant risk of harassment and physical and sexual assault. Nearly 30% of homeless transgender individuals report being turned away from a shelter due to their transgender status and 22% report experiencing sexual assault perpetrated by staff or other shelter residents.² The Equal Access Rule clearly prohibits these discriminatory actions. HUD funds welcoming and inclusive housing programs open to all eligible individuals; the requirements of Equal Access Rule and follow-up guidance ensure that local projects know how to implement and enforce this requirement.

HUD programs are built on a strong foundation of partnerships with both national and local organizations. Over the past five years, HUD has worked with partners that are leading the effort to ensure individuals receive fair treatment when accessing HUD funded programs, from providing mortgages to accessing emergency shelter. Locally, the Continuums of Care (CoCs) and government partners target HUD resources to meet the unique needs in each community.

These training materials provide CoCs and projects with the framework to create welcoming and inclusive projects for transgender and gender non-conforming people and to be in compliance with the requirements of the Equal Access Rule. Transgender and gender non-conforming people sometimes face different issues of discrimination, so this sourcebook sometimes addresses transgender-specific topics, and at other times, addresses transgender and gender non-conforming topics.

2 Ibid, Page 106.
Introduction to the Equal Access Rule in Shelters

This section provides an overview of the US Department of Housing and Urban Development’s (HUD) Equal Access Rule requirements related to accessing emergency shelter services. This section covers:

- Suggested language for transgender-inclusive projects to use in discussions and written materials;
- What to include in a project site’s anti-discrimination policy; and
- How to request technical assistance or additional guidance from HUD.

Announced in January 2012, the Equal Access Rule codified HUD’s commitment to the fair administration of its funded projects “regardless of marriage status, sexual orientation or gender identity.” Following that announcement, in September 2016, HUD further required that decisions related to placement and accommodations in single-sex shelters and facilities must be made in accordance with the resident’s gender identity.
This sourcebook familiarizes project staff with best practices consistent with HUD’s Equal Access Rule requirements in order to establish and support transgender-inclusive projects. It also provides projects with a framework for policies and practices that foster inclusive projects. Readers can find information about how project staff and facilitators can:

- Employ transgender-inclusive language in discussions and written materials;
- Intervene in conflicts to promote the safety of all residents while upholding expectations of appropriate behavior; and
- Hold staff and residents consistently accountable regarding standards of behavior within HUD-funded shelters and projects.

Few situations are more fraught with anxiety and fear than an individual seeking lifesaving services, shelter or food from service providers. Transgender and gender non-conforming people have the added anxiety of wondering whether they will face discrimination when they seek help. Concern that a miscommunication with a staff member could result in their expulsion, or that a misunderstanding with another resident may escalate to threaten their safety, are heavy burdens.

To best support these individuals during such critical times, gender identity must and gender expression should be included in a shelter’s non-discrimination policy so that transgender residents and gender non-conforming residents are explicitly covered by the policy. Related policies and procedures that support non-discrimination should be developed with input from all of a provider’s stakeholders and should promote practices that respect the diverse range of people seeking shelter at HUD-funded projects. State and municipal laws may also require providers to incorporate additional specific protections into an anti-discrimination policy. Every provider must be aware of and in compliance with their state and municipal anti-discrimination regulations. This document focuses on developing, communicating, and enforcing policies and procedures that support transgender and gender non-conforming inclusiveness, as well as creating spaces that support these residents to begin the process of re-establishing their self-sufficiency.

As a beginning step in creating transgender and gender non-conforming inclusive environments, subject matter experts, members of the transgender community, advocates and service providers have identified terms that convey respect when discussing diverse gender identities and expressions. Using respectful language communicates that a project welcomes all eligible residents. However, it is important to remember that clients make the final decision about how to identify and express themselves, including their gender pronouns.

Gender Non-Conforming clients may not identify as either male or female. A spectrum of gender expression exists that is a mix of attributes traditionally considered male or female. Gender non-conforming individuals express their internal gender identity through characteristics from across the gender spectrum.
Introducing Transgender-Inclusive Language

Provider Goal: To use appropriate, inclusive language in communication, publications and training that affirms the provider’s commitment to serving residents in accordance with the Equal Access Rule.

Problem: When entering a HUD-funded project many transgender and gender non-conforming residents report fearing that staff may be shocked, hostile or rude.

Discriminating/Affirming Language

This document discusses some terms commonly used among members of the LGBTQ community. However, if a resident reports that a term is offensive to them, reasonable efforts should be made to respect their wishes and use their preferred terms.

First, understanding gender transition is important. “Transition” refers to the time period that many transgender people go through to live as the gender they identify as, instead of their sex at birth. A significant part of transitioning is the social aspect: going by a new name, pronoun, and changing one’s outer appearance (clothing, hairstyle, etc.) so that other people see the person as the gender they identify. For some, this process includes medical treatments, like hormones or surgery.

Pronouns. Staff should always refer to residents by the name and pronouns that match their gender identity (unless the person has requested otherwise). Some residents may choose to be referred to using the pronouns they, them and their instead of gendered pronouns, such as he or she. While traditionally plural pronouns, these terms have been adopted by members of the community as a comfortable way to identify themselves without expressing a specific gender.

Personal Questions. As a general standard, staff should avoid asking personal questions unrelated to the provision of housing or shelter, especially regarding medical treatment. Questions like: “have you had surgery?” are not appropriate.

Additionally, staff should avoid using language such as “transgendered” or “a transgender,” which reduces an individual to a single defining attribute and fails to respect the entire individual. Diminishing an individual in this manner, intentional or not, can convey disrespect.
Glossary of Gender Identifying Terms and Definitions

Below are some common respectful terms and their definitions along with links to other resources.

Assigned/Designated Sex at Birth:
- Frequently a binary designation of “male” or “female”.
- Based on the person’s internal or external anatomy at birth.
- Assigned at birth, typically by a medical professional (e.g. sex listed on birth certificate).
- May or may not correspond to one’s gender identity.

Cis-Gender
- Refers to a non-transgender person.
- The prefix “cis” means “matches”. So, cis-gender means that one’s sex assigned at birth “matches” one’s gender identity.

Gender Identity:
- Internal or innate sense of being male, female, or another gender.
- May or may not match their assigned sex at birth.
- May not be visible based on outward appearance.

Gender Expression:
- External expression of gender identity (note that many times people do not feel they can safely express their gender identity).
- Exhibited through: behavior, clothing, hairstyle, body language, and voice.
- Does not always correspond to a person’s gender identity.
- May change over time or even day-to-day.

Sexual Orientation:
- Physical or emotional attraction to the same and/or opposite sex.
- Distinct from one’s gender expression or identity.

Gender Non-Conforming:
- Someone who does not conform to traditional gender roles or stereotypes.
- Traditional roles and stereotypes vary based on different cultural and societal ideals.
- Individuals may be perceived as having a different gender than their outward appearances (behavior, clothing, hairstyle, body language, voice).

NCTE maintains a primer on respectful, inclusive language.

MTPC produced a guide for shelter providers that includes incorporating inclusive language.
Remember, the Equal Access Rule prohibits discrimination on both actual and perceived gender identity.

**Non-Binary Person:**
- A person who does not identify as male or female (male/female are the two ends of the gender spectrum).

**Gender-Neutral:**
- Language used to describe “all gender” or unisex spaces, (i.e. gender-neutral or all gender bathrooms), language about relationships (spouse or partner, instead of wife/husband or boyfriend/girlfriend), etc.

**Transitioning (Gender Transition):**
- Process that some (but not all) transgender people go through to begin living as the gender with which they identify, rather than the sex assigned to them at birth.
- Transitioning does not require medical treatment.

**Transgender:**
- Umbrella term for people whose gender identity is different from their assigned sex.
- Occasionally, an individual may determine they no longer identify as transgender after they transition.

**Trans Woman:**
- Someone who lives or identifies as a woman, even though they were assigned male at birth may or may not have undergone medical treatments.
- Sometimes referred to as “Male-to-Female” or “MTF,” but these terms may not be preferred as they can over-emphasize that the person was born male rather than her current identity.

**Trans Man:**
- Someone who lives or identifies as a man, but was assigned female at birth. May or may not have undergone medical treatments.
- Sometimes referred to as “Female-to-Male” or “FTM,” but these terms may not be preferred as they can over-emphasize that the person was born female rather than his current identity.
Fair Housing and Anti Discrimination Policies

In creating transgender-inclusive environments, providers must document clear standards in personnel handbooks and other policy documents, and should publicly post policies where residents, volunteers, visitors and staff can view them. Each of the subsequent sections reviews elements of a comprehensive policy. This sourcebook does not articulate every aspect of fair housing and anti-discrimination policy. States and many local communities have established their own rules and regulations related to fair housing in addition to those established by HUD. Check out HUD’s Office of Fair Housing and Equal Opportunity.

Many states have developed resources for shelter and housing providers to use in complying with state fair housing laws. FHEO maintains a state-by-state list of fair housing enforcement authorities. Many states and cities have also established additional regulations and statutes to create enhanced protections and consequences for discriminatory actions. Contact your state fair housing enforcement authority for additional information related to comprehensive fair housing practices and incorporate them into your internal policy and personnel handbooks.

Once staff and contractors are up to date on the required policy changes, the next logical step is communicating them to residents.

The document on page 8 was developed by a project in Boston, MA. It communicates concisely the provider’s commitment to equal treatment for all residents. Each resident acknowledges the policy upon project enrollment.

New York City has established a law to describe precisely what actions constitute harassment. This is an example of a community implementing protections that exceed those established by HUD. Click this link to learn more about this law.
SAMPLE DOCUMENT:
Communicating Anti-Discrimination Policy to Clients

(Project Name) welcomes individuals who are heterosexual, bisexual, gay, lesbian, transgender queer and/or gender non-conforming of different races, classes, religions, ages and backgrounds. I will be respectful of the other program participants and staff. I understand that any oppressive or abusive language or actions are not acceptable. If I have any questions about this policy, I can ask a staff member to explain it to me.

If a program participant or staff member is acting in an abusive or oppressive way towards me, I know that I can report this behavior to a staff member. If I feel that the issue has not been addressed, I can then report it to the project coordinator, ____________. If the issue has still not been appropriately addressed, I can bring the issue to the executive director, ________________.

Signed: ______________________________

Date: ________________________________

HUD has provided a Notice that providers can publicly post to inform staff and residents about requirements of the Equal Access Rule.
Inclusive Policy Standards for Staff and Residents

This section explains:

- What policies a provider can implement to build an inclusive project and community;
- How policies can mitigate risk to transgender and gender non-conforming residents; and
- What elements to include in policies to increase their effectiveness.

Given the increased occurrence of discrimination affecting transgender and gender non-conforming residents, HUD-funded projects must take precautions to ensure a project is free of discrimination. Likewise, if a resident encounters discrimination, a clear protocol must be in place for disciplining or expelling the perpetrator (whether staff, volunteer or resident) from the site.

Staff and volunteer training, as well as contracting and resident orientation should incorporate inclusive policies. Clear guidelines defining unacceptable behavior, the process for reporting violations of the policy and corrective actions allow all members of the shelter community to participate with consistent expectations.

A recent study by the Center for American Progress found that only 33% of 100 shelters across four states correctly admitted transgender identified residents.
Inclusive Policy Standards: Staff

Implementing the Equal Access Rule requires upholding consistent standards for all project staff, contractors and volunteers. Multiple studies have found that transgender individuals are at a higher risk than other members of the homeless community to be the subject of harassment and assault. Best practices for mitigating these risks include establishing policies to meet discriminatory conduct with a consistent organizational response. Language and actions that are discriminatory in nature, regardless of the intent, cannot be tolerated. With this in mind, projects should have policies on what language and behavior is unacceptable for staff and volunteers to use in any interaction within the project.

Project staff may speak or act out of ignorance, inadvertently using potentially offensive language. A staff member may carelessly or intentionally use the wrong pronoun and name to refer to a transgender or gender non-conforming resident. Projects should actively communicate with staff to ensure the provider’s commitment to transgender-inclusive language and programming is clearly understood. By establishing personnel actions that encompass both educational and corrective goals, site managers can identify appropriate next steps. Incorporating these guidelines into training and initial hire orientation promotes consistent expectations of behavior among all staff, volunteers and contractors.

Actions, especially those that are egregious, malicious, or severe in nature, may warrant termination or a more serious legal response. Projects should clearly articulate what actions are opportunities for education or additional training, and what actions will result in more serious personnel consequences. Communicating and consistently applying these parameters creates shared expectations among the entire project team.

The United States Equal Employment Opportunity Commission (EEOC) has established guidelines for employers regarding behaviors that create a hostile work environment and require correction. It is important to remember that homeless projects are also workplaces. As defined by the EEOC, harassment can include:

- Offensive jokes, slurs, or epithets or name-calling
- Physical assaults or threats
- Intimidation, ridicule, or mockery, insults or put-downs
- Offensive objects or pictures
- Interference with work performance
EEOC established the following employer liability for harassment:

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor’s harassment results in a hostile work environment, the employer can avoid liability only if it can prove that: 1) it reasonably tried to prevent and promptly correct the harassing behavior; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer. The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g. independent contractors or customers on the premises), if it knew or should have known about the harassment and failed to take prompt and appropriate corrective action.

A recent ruling by the EEOC established that a transgender employee has the right to be referred to by the name and pronoun that matches their identity, as well access gender-specific facilities that match their identity. (Lusardi v. McHugh, Appeal No. 0120133395)

The EEOC also recognizes a category of “non-employed individuals over whom it has control” to ensure that independent contractors and volunteers granted access to a site adhere to organizational standards. Staff, volunteers and contractors must uphold the agreed-upon standards. Organizations should implement any policy across contracts, subcontracts and volunteer training.

In creating safe, supportive and inclusive environments, an important part of staff responsibilities is addressing conflict that may arise. Managing conflict can be challenging and uncomfortable, and staff might improperly focus their attention on the more cooperative harassed individual, and not on the aggressor to resolve a conflict. Conflicts that could escalate to expulsion from the project are among the most challenging for staff to approach. It is important that training incorporates multiple methods for addressing and resolving impermissible conduct among residents to ensure that all staff and volunteers possess strategies that will work for them. Training may include role-playing, providing sample language and utilizing onsite or on-call senior staff to manage complex situations.
STANDARDS OF BEHAVIOR:
Across the Coordinated Entry Process

As Coordinated Entry is implemented across more and more CoCs, it is important that all organizations involved in referrals support transgender and gender non-conforming inclusive projects. Unfortunately, a recent study by the Center for American Progress found inconsistent practices. The survey of 25 shelters in each of four states found only 30% of projects correctly offering shelter to test callers who identified as transgender. With CoCs working to design common intake procedures and single-points-of-entry, it is critical that all eligible people know they are welcome. From the first contact with a 2-1-1 operator to the last interaction with the CoC, all people should be free from discrimination. CoCs should look closely at each step in the process to identify opportunities to improve their practice. Possible improvements may be:

Triage/Pre-Assessment

- Training phone operators to avoid gendered greetings such as “sir” and “ma’am”
- Ensuring all forms allow for transgender and gender non-conforming selections by clients
- Creating space on forms for all people to indicate their preferred name and pronouns.

Referrals

- Supporting transgender individuals’ enrollment and placement based on their gender identity in single-sex options to ensure correct procedures are followed throughout the Continuum
- Only sharing necessary information about individuals when making a referral
- Listening to callers and respecting their choices to access any options for which they are eligible

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Inclusive Policy Standards: Residents

Regardless of the size, mission or staffing, all HUD-funded projects are expected to be free of discrimination and harassment. Providers communicate the absence of bias by using inclusive language in:

- Signage within the project;
- Interactions with staff and residents;
- Publications about the project; and
- Intake forms that give residents the option to reveal or omit their transgender or gender non-conforming status.

Most providers have created codes of conduct that describe expected behavior in simple, straightforward language. Smaller projects and those with long-term residents might provide residents with a written copy of these expectations, while larger emergency shelters that exit all residents every morning might post the code of conduct in public spaces within the shelter.

Ensuring that residents adhere to these codes of conduct can be challenging. Projects can be chaotic requiring residents to interact with strangers constantly and, at times, with little control over their environment. Transgender residents have the added threat of discrimination and rejection if projects do not work to create inclusive environments. Harassment creates unwelcoming atmospheres, creating or exacerbating conflict between residents. Although this conflict may be initiated by another resident, it risks the expulsion of all parties involved, aggressor and subject alike.

Directors and managers must craft policies that enable all eligible residents to access services. As frontline staff are largely responsible for enforcing these policies, it is imperative that clear expectations are documented and communicated to assist staff in their role. Managers and senior staff help set an inclusive tone for the project, which can be done in part through modeling appropriate language and behavior at all times. This will help set a standard of inclusiveness among both staff and residents.

Check out the District of Columbia’s Office of Human Rights campaign to support inclusive bathroom signage.
Projects employing inclusive language on forms, internal signage and external publications about the project communicate their commitment to a transgender-inclusive project. This is a component of supporting all eligible participants. Once admitted to a project, an individual's interactions with staff and fellow residents in the community play a role in their progress towards ending their homelessness. Projects should have policies and procedures in place that support a transgender and gender non-conforming inclusive environment. Policies and procedures should:

Use gender neutral standards. For example, dress codes should articulate which areas of a resident's body should be covered rather than focusing on gender-specific articles of clothing (e.g. residents must be covered from the base of their neck to their knees when in public areas of the project). This removes any reference to particular types of clothes that individuals must wear.

Incorporate the same standards of respectful behavior into employee, resident, volunteer and contractor training to establish consistent expectations.

It is fundamental that all project policies reinforce that an individual's identity as transgender or gender non-conforming does not create a risk to others' health and safety. Rather, maintaining an inclusive community enhances safety for all residents. Some residents may initially present concerns about transgender or gender non-conforming residents to project staff and managers. Staff should treat those concerns as opportunities to educate and refocus the resident on their own progress. But even then, conflict may persist and complaints may escalate to verbal or physical harassment. Whether directed at another resident within the project or off-site, harassment jeopardizes the health and safety of community members. Providers should have policies and procedures in place to support residents and staff in addressing and resolving conflicts that escalate to harassment. Policies and procedures should:

- Include specific behaviors that violate standards of respectful behavior, such as language, actions and non-verbal intimidation.
- Escalate corrective actions if an individual repeats the same violation of standards after educational opportunities are offered.
- Focus corrective actions on aggressors who violate project rules, not on the subject of their harassment.
- If a resident continues to disrespect a transgender individual, consider as interim steps:
  - requiring that the harassing resident stay away from the transgender individual,
  - making changes in sleeping arrangements without limiting the freedom of the transgender individual, or
  - pursuing other interventions that do not result in the expulsion of the harassing resident.

In no instances should interim or final steps involve expulsion of the harassed client.
Creating Inclusive Standards: Transgender and Gender Non-Conforming Persons’ Access to Projects

The questions and factors listed below are some components of creating inclusive policies at a provider. Providers likely have additional requirements based on state and local statutory and regulatory requirements. CoC and providers may want to share the costs of legal advice to ensure comprehensive compliance.

Is the project or service permitted by statute or regulation to segregate services based on gender?

The Department of Justice has established that Violence Against Women Act (VAWA)-funded projects must be able to demonstrate that sex-segregation of services are essential to the operation of the project. [http://www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf](http://www.justice.gov/sites/default/files/ovw/legacy/2014/06/20/faqs-ngc-vawa.pdf)

HUD has established that emergency shelter and other facilities are permitted to operate single-sex projects when the project consists of a single structure with shared bedrooms or bathing facilities such that the considerations of personal privacy and the physical limitations of the configuration of the housing make it appropriate for the housing to be limited to one sex. See regulations at: [https://www.hudexchange.info/resources/documents/CoCProgramInterimRule_FormattedVersion.pdf](https://www.hudexchange.info/resources/documents/CoCProgramInterimRule_FormattedVersion.pdf)

If the provider is permitted to segregate services based on gender, the provider must create policies that ensure housing and services to all eligible individuals identifying with that gender, including those individuals whose gender identity does not match the sex assigned at their birth.

HUD recognizes a difference may exist between an individual’s gender identity and their sex assigned at birth.

HUD has established that providers may not deny access to a single-sex emergency shelter or facility because the provider possesses identity documents indicating a sex different than the gender with which the resident or potential client identifies.

A provider may not consider the resident or potential resident ineligible for an emergency shelter or other facility because their appearance or behavior does not conform to gender stereotypes.

A provider may not ask questions or otherwise seek information or documentation concerning a person’s anatomy or medical history related to their gender identity or expression.
If the provider is not permitted to segregate services based on gender, then the provider must serve all individuals that are eligible for the project.

HUD-funded family shelters may not deny services to clients of any gender if they are eligible.

HUD-funded family shelters may never discriminate on the basis of gender. Some projects have erroneously established a policy of not housing males over the age of 13 or requiring them to seek other housing, thus separating them from their families. This involuntary separation is prohibited by 578.93(e) of the CoC Program Interim Rule and is a violation of the Equal Access Rule.

Transgender and gender non-conforming clients have access to projects according to their gender identity.

Clients may choose to disclose their transgender status at some projects within a community while not disclosing at other projects. For instance, a client may want to disclose their transgender status at a health clinic to receive appropriate healthcare but not at a project where one’s sex assigned at birth is not relevant to the services provided.

A transgender client may elect to share their transgender status with project staff, or not. In the event that a client discloses being transgender, staff should consult that client about whether the client prefers to have the HMIS data element for “gender” reflect their transgender status or not. For instance, if a client identifies as a transgender man but would prefer not to have this reflected in his HMIS record, then the staff person would select “male” instead of “transgender female to male”. Staff can still note in a confidential case management note, if this feature is available in the HMIS, an individual’s transgender status if it is appropriate and necessary to the provision of services.

Clients reporting different gender identities or presenting different gender expressions at multiple projects within the same CoC are not violating standards for accurate collection of information. Clients decide to which projects they will disclose potentially sensitive information. Project staff should enter the self-reported information as directed by the client. HUD is working to provide additional guidance related to the data element “gender” and its use in HMIS.
Creating Inclusive Spaces: Facilities

Some projects, particularly emergency shelters, may be based in physical facilities that were not designed for the purpose of providing shelter or housing, or for the number of residents they currently serve. Additionally, facilities may have been developed in accordance with outdated regulations that have since been updated to reflect the importance of accessibility, privacy and safety. Given the scope of existing resources, projects may not be able to immediately alter the physical spaces of the project. While this limitation restricts the extent to which a project can adapt, there are several strategies that projects can implement to meet residents’ privacy and safety needs.

Staff must take non-discriminatory steps that may be necessary and appropriate to address privacy concerns raised by residents. The provider must ensure that its policies do not isolate or segregate clients within the project based upon transgender and gender non-conforming status unless a specific privacy request is made. In both the use of bathrooms and bed assignment, a variety of methods may be effective at addressing a resident’s privacy needs.

Staff may offer a resident a room, floor or bed that is in proximity to staff workstations.

Staff may offer a resident access to rooms, floors or beds set aside for residents with increased vulnerability. However, the accommodation should be available to clients based on a variety of factors that can increase one’s vulnerability, and not just be restricted for use by transgender or gender non-conforming residents.

Staff may offer to assist a resident in identifying an alternate project that will provide comparable services and provide a referral. Staff should make reasonable efforts to ensure a vacancy exists, that the resident is eligible for that project, and that the client is able to enroll in the alternate project.

A strategy of last resort could be to offer a client a hotel or motel voucher. However, to be a comparable option, the voucher must be offered for the full period of time the original project site would be able to shelter the client, and the client has access to comparable services and resources either via an outreach team or a supportive service project.
The use of bathroom and shower facilities for every client is an important part of maintaining hygiene and dignity. Many cities and communities have established bathrooms that are for individual use and do not have a gender marker on the door. Some facilities have designed bathrooms that permit congregate use by all genders, with individual stalls designed to maintain privacy and dignity. These options may or may not be reasonable for a given project. Regardless, strategies exist to accommodate any client with a need for individual or private showers or bathrooms. Clients with special health concerns, trauma histories or other needs may also make reasonable requests for accommodations. Some options for staff are:

Establish a single use bathroom for client use at specific intervals during the day. Often an existing staff member bathroom may be made available for this purpose without compromising the requirements of staff members.

Provide certain times during the day that a bathroom can be scheduled by any client with a request to use a congregate facility privately.

Ensure that toilet and shower stalls have locking doors or, at a minimum, curtains to allow for modesty and dignity.

For shower use, consider implementing a schedule for all clients if communal showers are the only available type of show.

Some federal agencies use the terms “sex” and “gender” synonymously. Other departments use them to accurately distinguish the physical anatomy of an individual’s body (sex) and their internal sense of identity (gender). An added complexity for projects is that some statutory language uses different definitions. In general, project staff should review formal guidance from federal program staff for clear definitions. HUD grantees can submit questions using the Ask-A-Question feature on [www.hudexchange.info](http://www.hudexchange.info) for program specific guidance.
Confidentiality: Sex Assigned at Birth

Clients often share very personal and private information as they seek services. Every HUD-funded project has policies related to confidentiality. However, most staff training fails to instruct staff that a client’s sex assigned at birth is confidential information. Staff that have not been trained to understand the impact that disclosure can have on a client’s physical and mental well-being may inadvertently delay or derail a client’s progress towards ending homelessness. It is essential that all staff, from the chief executive officer and the board of directors to contracted security, receive training on confidentiality to avoid jeopardizing client welfare.

CoCs and projects should consider including sex assigned at birth on their list of confidential information. Transgender residents of projects have a higher likelihood of suffering harassment or physical harm based on the disclosure of the difference between their gender identity and their sex assigned at birth. This is true both within the physical structure of the project and outside the project.

Additionally, clients may elect not to disclose their transgender status in certain spaces or at certain moments for health and safety reasons. The decision to disclose one’s transgender status lies solely with the client.

If a staff member has questions regarding disclosure of an individual’s transgender status, they should seek additional training from their human resources department or guidance from their supervisor.
**Confidentiality: Medication**

Almost every project has policies related to accessing both prescription and non-prescription medications. Some shelters incorporate programs, such as Health Care for the Homeless or other healthcare services into their operations, such as mobile healthcare providers that visit some project sites on a regular basis to provide primary care. Many projects also require residents to submit their belongings to a search by staff to deter the introduction of weapons and illegal drugs to the project. Given the range in types of both medical and housing services, and the different security measures used across projects, medication access policies vary broadly.

In some projects, staff secure prescription medication and must be present when clients access the medication. Some shelters have medication lockers that clients use to secure their medication, while other sites are licensed for the administration of medication and are more involved in the process. Whether a client is cis-gender or transgender, their prescription medication should be subject to all of the same standards of the shelter.

Transgender individuals may have a variety of medical needs, related or unrelated to their transgender status. They may carry hypodermic needles for the use of insulin to control diabetes (unrelated) or for injecting prescribed hormones (related). A resident’s reason for using a particular medication is generally irrelevant; once staff members have documented that a medication is properly prescribed, then standard policies should apply to all residents.

Some homeless individuals who identify as transgender may use hormones or other medication as part of their gender-affirming healthcare regimen. Because access to prescription medication requires access to both a healthcare provider and the funding to purchase these medications, some individuals may be using medications from illicit or outside sources, acquired through the Internet or on the street. If staff members are concerned that any client is using medication improperly (e.g., without a prescription or from an unregulated source) they should follow local project policies for reviewing these concerns with a client. Shelter staff can assist residents in obtaining health insurance or if currently enrolled, finding a healthcare provider that will support the resident’s transition-related health care needs.

The US Department of Health and Human Services has proposed a new Rule that prohibits discrimination in healthcare coverage related to transgender status. For more information, check out this HHS website.
What’s Next? Next steps and where to go for help.

Looking for resources and examples for materials to incorporate into your project? Be sure to check out the links referenced in this sourcebook! If these don’t address your informational needs, take a look at the resources developed by some of the organizations working on these issues, including:

- The National Center for Transgender Equality
- The Ali Forney Center
- The True Colors Fund
- The National Network to End Domestic Violence
- The National Resource Center on Domestic Violence
- The Massachusetts Transgender Political Coalition
- FORGE
- The Washington State Coalition Against Domestic Violence
- The Anti-Violence Project

HUDExchange.info is the place to go for formal program guidance and to request technical assistance. Looking for an answer to a specific question not addressed here? Submit it to the Ask-A-Question feature on the HUDExchange.

For questions or specific complaints related to Fair Housing Act enforcement, HUD’s Office of Fair Housing and Equal Opportunity maintains several options for registering a complaint, including:

- The Housing Discrimination Complaint iphone app
- Contact your regional office
- File a complaint online
INCLUSION TOOLKIT
An introduction

Creating a space where everyone feels welcome can be difficult, especially since everyone has different needs. This Inclusion Toolkit will walk you through the process of creating a more inclusive and affirming environment for young people who identify as lesbian, gay, bisexual, transgender, queer, and questioning (LGBTQ) and will also equip you with the policies and tools to back it up.

This toolkit is informed by the True Colors Fund’s Inclusion Criteria, which were developed as a baseline for creating inclusive and affirming environments. These criteria include:

- LGBTQ+ Affirming Paperwork
- Non-discrimination/Inclusion Policy
- All-Gender/Single-Use Restroom
- Visible Safe Space Signage
- Diversity Posters
Terminology

Before we get started, here are some terms and general definitions we’ll be using throughout this toolkit. Please remember that different people may have different definitions for these terms, especially when used to identify themselves. These terms are also subject to change as our understanding of gender and sexuality evolves.

**Gender Identity:** Refers to a person’s innate identification as a man, woman, neither, both, or some other gender. A person’s gender may or may not correspond to the sex assigned to them at birth.

**Gender Expression:** Refers to the way a person communicates their gender to the world, including dress, grooming, mannerisms, speech patterns, and social interactions.

**Cisgender:** Refers to a person whose gender identity or gender expression matches the sex that was assigned to them at birth.

**Transgender:** Refers to a person whose gender identity or gender expression is different from the sex that was assigned to them at birth.

**Gender Expansive:** An umbrella term sometimes used to refer to a person whose gender identity goes beyond the traditional definitions of male and female. Other terms that might be used include ‘genderqueer’ or ‘gender non-conforming.’

**Intersex:** Refers to a person whose sexual anatomy or chromosomes do not fit with the traditional markers of “female” or “male”

**Two-Spirit:** An observance in many Indigenous communities that considers some LGBTQ people to have male and female spirits.

**Sexual Identity/Sexual Orientation:** Describes an individual’s emotional and/or physical attraction to another person or people.

**Lesbian:** Refers to a woman who is attracted to other women.

**Gay:** Refers to a man who is attracted to other men. This term is also used for anyone who is attracted to another person with the same gender identity.

**Bisexual:** Refers to a person who is attracted to both men and women.

**Pansexual:** Refers to a person who is sexually and/or emotionally attracted to people of any sex or gender identity.

**Queer:** An umbrella term sometimes used to refer to a person whose attraction and/or identity goes beyond the traditional definitions associated with sexual orientation and gender identity. Different people use this term to mean different things.
Visual cues

Creating a safe and affirming environment does not just happen incidentally; it is done intentionally. A great way to start is by providing visual cues.

A visual cue could be anything from a sticker indicating a safe space to a poster featuring diverse gender presentations to a mural celebrating an entire community. These visual cues send a message to everyone who enters a space that all identities are welcome and supported. Visual cues should be prominently displayed in common areas including lobbies, entrance ways, and restrooms.

Action steps:

- Prominently display “Safe Space” stickers in common areas.
- Display posters featuring diversity in gender presentations and with themes of diversity and inclusion.
Staff development

Hiring and Onboarding
A culture of acceptance should be asserted the moment a potential staff member, volunteer, or visitor enters a space. When interviewing new staff, ask questions directly relating to the individual’s opinion of LGBTQ identities. Also, require staff members or volunteers to complete LGBTQ competency training before they interact with young people. No exceptions.

Below are some sample statements and questions that a hiring manager can mention in an interview setting to assess the interviewee’s level of understanding of LGBTQ issues.

Sample Statements/Questions:

• [Agency] is actively engaged in creating affirming environments for all youth. This is a safe space for LGBTQ youth to be their authentic selves.

• If a young person disclosed to you that they were questioning their gender identity, what would be your next steps?

• How would you respond to a young person changing their pronouns or name?

• What are your thoughts on housing young people based on gender rather than sex assigned at birth?

• What is your comfort level in answering questions from LGBTQ youth about safe-sex practices and prevention methods?

Staff Training
The culture of an agency or residence is defined from the top down. In order to have a culture that is accepting and supportive, there needs to be buy-in at all levels. From executive leadership to direct service staff to transportation and maintenance workers, every team member needs to truly believe LGBTQ youth have a right to safety and self-expression.

Action step:

• Implement mandatory LGBTQ competency as part of your onboarding process.

• Require all current staff to complete an LGBTQ cultural inclusivity course.

• Encourage organization-wide conversations about LGBTQ cultural competency.
Policies into practice

Posted Policies
While organizational practice can adapt to the needs of clients, formal policies must also be enacted to reflect these changes. A general rule of thumb is that if it’s not written, it doesn’t exist. Policies protect both youth and staff, and policies supporting LGBTQ youth should be displayed prominently.

Intake Forms and Agency Paperwork
Paperwork, even if only used internally, should always reflect the gender, pronouns, and name of a young person. State-required filing systems may not provide a field for entering a name or gender outside of the name and sex assigned at birth; however, that information should be noted repeatedly within case notes and other paperwork. Brochures and websites should reflect that the agency is an affirming, supportive, and safe space for everyone, specifically LGBTQ young people. During initial assessments, all young people should be asked their name (which may not match their legal ID) and their pronouns (which may not match their legal gender marker). This can be modeled by the staff person offering their own name and pronoun first. Asking additional questions, such as gender and sexual orientation, can wait until a relationship has been developed.

Restrooms
Not every space has restrooms created with the intention of all-gender access, but they can still be designated! Single stall restrooms can easily be converted to all-gender with a simple sign. If single stall restrooms do not exist, allow youth to use the restroom in which they feel comfortable. The same accommodations should be applied to locker rooms and showers, even if it means finding times during the day when only transgender young people have access to the facilities.

Action steps:

• Create and display inclusive agency policies.
• Create and implement intake paperwork that is inclusive of varying gender and sexual identities.
• Designate an all-gender restroom.

Looking for examples? Refer to the resources at the end of this Toolkit.
Reprogramming

Centering Youth Voices
Whenever decisions are being made that impact young people, it’s important that youth are at the table and have equitable decision-making responsibilities. This can look a number of different ways: working with young people to establish a youth leadership body, including one or more youth representatives on a board of directors, and creating opportunities for young people to speak for themselves. Young people who are receiving services should be encouraged to participate in decisions that directly impact their housing and wellbeing.

Workshops
Agency programming should be reflective of the youth involved. It is important to include an LGBTQ youth perspective in all programs and workshops. Examples include sexual health workshops, movie nights, healthy relationships workshops, and Know Your Rights trainings. If possible, activities specifically for LGBTQ youth, such as an LGBTQ Dance Night or an LGBTQ discussion group, should also be available to foster personal growth and community.

Partner Up
No organization is an island! Working collaboratively creates a community-centered response to support LGBTQ youth experiencing homelessness, rather than a response rooted in crisis management. Partnering with LGBTQ advocacy organizations can help keep you up to date on what is happening in the community.

Action steps:

• Have all staff wear pronoun buttons to introduce the idea of sharing pronouns with other staff and participants.

• Consider developing a youth leadership body to reframe how young people inform your work.
Resources

**True Colors Inclusion Directory** | [www.truecolorsfund.org/directory](http://www.truecolorsfund.org/directory)
If you work at a youth-serving organization that provides housing and/or supportive services, make sure your agency is listed in our Inclusion Directory. As you implement the recommendations provided in this Toolkit, upload photos of your inclusive and affirming space to let young people know they’re welcome.

**True Colors Learning Community** | [www.truecolorsfund.org/courses](http://www.truecolorsfund.org/courses)
Many of our Learning Community members, service providers in particular, are unable to attend in-person trainings and webinars due to restrictive costs and time constraints. Our Learning Community provides short, engaging, interactive content that service providers can access at the time and pace of their choosing.

**Youth Collaboration Toolkit** | [www.truecolorsfund.org/collaborate](http://www.truecolorsfund.org/collaborate)
Developed as a partnership between the National Youth Forum on Homelessness (NYFH) and the True Colors Fund, this toolkit was initiated by NYFH and the content was shaped by their voices. The ideas and concepts included in this toolkit will help ensure that young people are authentically engaged while collaborating with the affirming adults in their lives.

**Sample Inclusive Policies** | [www.truecolorsfund.org/policies](http://www.truecolorsfund.org/policies)
This resource contains sample policies that can help set a standard of inclusion and safety for all youth who might access services or resources at a given organization.

**Inclusive Paperwork Guide** | [www.truecolorsfund.org/paperwork](http://www.truecolorsfund.org/paperwork)
This resource will provide some first steps to developing intake forms (and other paperwork) that are inclusive of LGBTQ youth!

**Online Store** | [www.truecolorsfund.org/store](http://www.truecolorsfund.org/store)
Please visit the True Colors Fund’s online store to purchase pronoun buttons, safe space stickers, and diversity posters. All proceeds support the True Colors Fund’s work to end LGBTQ youth homelessness.