

MIAMI-DADE COUNTY HOMELESS TRUST

POLICY & PROCEDURES

POLICY NO: HT009

**SUBJECT: APPROPRIATE PLACEMENT FOR
TRANSGENDER PERSONS IN SINGLE-SEX
EMERGENCY SHELTERS AND OTHER FACILITIES**

EFFECTIVE DATE: 6/30/16

REVISED DATE:

PURPOSE: The purpose of this policy is to define equal access to housing in CoC funded programs regardless of gender identity. This policy is pursuant to the final rule (Equal Access Rule) (77 FR 20 5662) which requires that HUD's housing programs be made available to individuals and families without regard to actual or perceived sexual orientation, gender identity, or marital status. The rule further defines "gender identity" to mean "actual or self-perceived gender-related characteristics." The final rule prohibits owners and administrators of HUD-assisted or HUD-insured housing, approved lenders in an FHA mortgage insurance program, and any other recipients or subrecipients of HUD funds from inquiring about sexual orientation or gender identity to determine eligibility for HUD-assisted or HUD-insured housing. The rule does not, however, prohibit voluntary self-identification of sexual orientation or gender identity, and it provides a limited exception for inquiries about the sex or gender identity of an individual to determine eligibility for temporary, emergency shelters with shared sleeping areas or bathrooms, or to determine the number of bedrooms to which a household may be entitled [24 31 CFR 5.105(a)(2)].

This policy also provides guidance on appropriate and inappropriate inquiries related to a potential or current client's sex for the purposes of placing transgender or gender non-conforming persons in temporary, emergency shelters or other facilities with shared sleeping areas or bathrooms.

SCOPE: Street Outreach (SO); Emergency shelters or other facilities receiving Emergency Solutions Grants (ESG), Continuum of Care (CoC), or Housing Opportunities for Persons with AIDS (HOPWA) funds.

HUD GUIDANCE FOR SINGLE-SEX EMERGENCY SHELTERS OR OTHER FACILITIES THAT RECEIVE ESG, HOPWA, OR COC FUNDS:

Assignments

The Miami-Dade County Homeless Trust, hereto referred to as "the Trust" assumes that a recipient or subrecipient ("provider") that makes decisions about eligibility for placement into single-sex emergency shelters or other facilities will place a potential client (or current client seeking a new assignment) in a shelter or facility that corresponds to the gender with which the person identifies and/or presents themselves as, while taking the client's health and safety concerns into consideration. A client or potential client's own views with respect to personal health and safety should be given serious consideration in making the placement. For instance, if the potential client requests to be placed based on his or her sex assigned at birth, as opposed to their gender presentation, The Trust assumes that the provider will place the individual in accordance with that request, consistent with health, safety, and privacy concerns. The Trust assumes that a provider will not make an assignment or re-assignment based on complaints of another sheltered person or shelter staff member, if/when the sole stated basis of the complaint is a client or potential client's gender identity, gender presentation, and/or non-conformance with gender stereotypes, gender roles, and/or expectations around sex and/or gender.

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Appropriate and Inappropriate Inquiries Related to Sex

For temporary, emergency shelters with shared sleeping areas or bathrooms, the Equal Access Rule permits shelter providers to ask potential clients and current clients seeking a new assignment their sex. Best practices suggest that where the provider is uncertain of the client's sex or gender identity, the provider simply informs the client or potential client that the agency provides shelter based on the gender with which the individual identifies and/or presents themselves as. There generally is no legitimate reason in this context for the provider to request documentation of a person's sex in order to determine appropriate placement, nor should the provider have any basis to deny access to a single-sex emergency shelter or facility solely because the provider possesses identity documents indicating a sex different than the gender with which the client or potential client identifies and/or presents themselves as. In regards to placement and/or eligibility, the provider may not ask questions about or otherwise seek information or documentation concerning the person's assigned sex versus their gender identity, current physical anatomy, medical history, hormone treatment, or sex-altering surgical procedures. Nor may the provider consider the client or potential client ineligible for an emergency shelter or other facility because his or her appearance or behavior does not conform to gender stereotypes, gender roles, and/or expectations around sex and/or gender

Privacy

If a transgender or gender non-conforming client expresses safety or privacy concerns, or if the provider otherwise becomes aware of privacy or safety concerns, the provider must take reasonable steps to address those concerns. This may include, for example: responding to the requests of the client expressing concern through the addition of a privacy partition or curtain; provision to use a private restroom or office; or a separate changing schedule. The provider must, at a minimum, permit any clients expressing concern to use bathrooms and dressing areas at a separate time from others in the facility. The provider should, to the extent feasible, work with the layout of the facility to provide for privacy in bathrooms and dressing areas for all clients. For example, toilet stalls should have operable doors and locks and there should be separate shower stalls with curtains and/or locking doors to allow for privacy. (Note: ESG and HOPWA funds may be used to renovate an emergency shelter to maximize privacy and safety.) The provider should ensure that its policies do not isolate or segregate transgender or gender non-conforming clients based upon gender identity. Clients may, however, ask to be isolated or segregated and reasonable steps should be taken to accommodate the client as facility space allows.

Training & Monitoring

The Homeless Trust is responsible to ensure that subrecipients comply with the Equal Access Rule. Subrecipients are encouraged provide and explain this policy to staff members at orientation, regular staff meetings, and to provide ongoing trainings to ensure that employees and contractors who interact directly with clients are aware of it and report/address noncompliance. If the Homeless Trust finds a recipient or subrecipient has failed to meet the aforementioned program requirements, the Trust may place the provider on corrective action to ensure the provider receives adequate training and compliance with this policy.

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