# Equal Access to Housing in HUD Programs Regardless to Sexual Orientation, Gender Identity or Marital Status

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**(First part of presentation borrows heavily from National Alliance to End Homelessness Training)**

# Overview of Equal Access Laws & Policies

HUD Rules and Homeless Trust Policy guarantee equal  access to housing and services, including shelters, regardless of sexual orientation, gender identity or family status:

- Equal Access Rule published in February of 2012

- Gender Identity Rule published in October of 2016

- Miami-Dade Homeless Trust Policy: Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities (HT009 adopted 2016)

# Applies to all HUD Programs

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

# Equal Access Rule - 2012

- Ensures that lesbian, gay, bisexual, and transgender people are guaranteed equal access to HUD's housing and shelters.

- Clarifies the term "family" and "family unit", as used in the HUD programs (see https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family- that-was-included/).

# Gender Identity Rule - 2016

- Published on September 21, 2016. Effective on October 21, 2016.

- Requires that policies and procedures to protect privacy, health, safety, and security, shall be established or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:
  - Equal access to all CPD programs is provided in accordance with gender identity;
  - In single-sex facilities, individuals are placed, served and accommodated in accordance with their gender identity; and
  - Individuals are not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of their gender identity.

- Plus, non-discriminatory steps must be taken to address privacy concerns, including updating operating policies and procedures.

## Miami-Dade Homeless Trust Policy: Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities (HT009 adopted 2016)

- Trust directly engaged with transgender advocates and stakeholders to expand upon the federal equal access policy.

- The Trust adopted policy that enhances HUD's Equal Access Rules.

- For example, Trust policy added language addressing a person's presentation that does not reflect their gender identity due to lack of resources or safety reasons.

- Providers cannot ask questions about medical history, hormones or sex-altering surgeries for purposes of placement.

- While a provider cannot segregate persons on the basis of gender identity or expression, a person can ask to be isolated or segregated if they have concerns regarding their own safety.

# Glossary

- **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.

**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.

**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.

# Why are Protections Necessary?

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

- In a recent study, nearly two thirds of homeless shelters 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.

# Creating a Safe Space

- 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?

# Family Status

- 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...

# Family Status

- HUD funded projects that serve families with minor children are not permitted to exclude families based on the gender of the head-of-household.

- A household with a head-of-household who is male, and eligible for the service, must be provided access to the same services, facilities, and staff to which all households enrolled in the project have access.

- Projects may establish a requirement that they only serve households with minor children and exclude households comprised entirely of adults.

# SAFE SPACES:
## Non-Binary Clients in Single-Sex Facilities

- Some clients may not identify as either male or female
  <u>BUT</u>
  Most shelters assign housing and programming based on only two genders: male and female

- How should project staff resolve this?

- Explain that the shelter's decisions are based on only two genders.

- 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: Showers & 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
  - Make single-use facilities all-gender, meaning anyone can use them
  - Increase privacy through staggered shower times for those who request more privacy

# 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.

# Forms of Discrimination

- 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.
- A coordinated entry call center that hangs up when a caller identifies as transgender.
- A shelter worker inquiring about an individual's anatomy prior to enrolling them.
- A site manager who enforces project rules differently for single-father households than for single-mother households.
- A family shelter that requires boys over the age of 13 to move out.
- A project staff person refusing to enroll an eligible individual because "you will make the other residents uncomfortable."

# Scenario #1

- 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 who are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.

# Scenario #2

- 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 women who identify as transgender in one building and women who do not 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 women who identify as transgender be served in a different building or project?

# Next Steps For Your Program

**Frontline staff:**

- Does frontline staff know and understand the agency's anti-discrimination policy?

- Is it posted publicly? No? Get a notice of rights at:
  https://www.hudexchange.info/resources/documents/Notice-on-Equal-Access- Rights.pdf

**Managers and Directors:**

- Do we have an anti-discrimination policy which incorporates Equal Access requirements?

- Do we regularly train staff and volunteers on the policy and how to implement?

**CoC Boards and other planning bodies:**

- Does the CoC and our projects have anti-discrimination policies which incorporate Equal Access requirements?

- Do we support projects to train staff on the policy and how to implement it?

- Have we been clear that projects must comply with these requirements?

# Additional HUD Materials

- HUD Equal Access Agency Assessment Tool

  https://www.hudexchange.info/resource/4952/equal-access-rule-project-self-assessment-tool/


- HUD Guide: Equal Access for Transgender People: Supporting Inclusive Housing and Shelter

  https://files.hudexchange.info/resources/documents/Equal-Access-for-Transgender-People-Supporting-Inclusive-Housing-and-Shelters.pdf


- NAEH Equal Access Decision Tree

  https://endhomelessness.org/wp-content/uploads/2018/07/Equal-Access-Decision-Tree.pdf