



EQUAL ACCESS RULE

Implementation

2024 Update

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Acknowledgements

Credits for material in this presentation

- HUD Exchange
- HUD Equal Access Self-Assessment Tool
- NAEH – Increasing Access to Shelter
- Legal Aide Society – Fair Housing Guide
- Urban Initiatives
- 24 CFR 578 and part 501
- Equal Access in CPD Programs

Session Goals

TOPIC: Equal Access Implementation

- Understand the link between Non-Discrimination and Equal Access Rule
- Provide information and tools for conducting self-assessments of the equal access rule (agency and individual)
- Session reinforces comprehensive training regarding Anti-discrimination Laws and the Equal Access Rule
- Enhance understanding by using examples

Non-Discrimination Laws and Equal Access Rule

- The Fair Housing Act
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- Section 3 of the Housing and Urban Development Act
- Violence Against Women Act, Reauthorization 2022
- Equal Access Rule 2012, 2016, 2020, 2021

What is the relationship between Non-Discrimination Laws and the Equal Access Rule?

Who is Protected?

Protected Classes - Federal

- Race, color, religion, sex, national origin, familial status, and disability.

Protected Classes - State of California

- Race, color, ancestry, national origin, religion, mental or physical disability, sex (including pregnancy), **gender, sexual orientation, gender identity, gender expression**, genetic information, marital status, familial status, source of income, or military or veteran status.
- In addition, the Unruh Civil Rights Act, which applies to business establishments, protects against housing discrimination related to age, citizenship, primary language, and immigration status, among other characteristics.
- California law also limits when, how, and to what extent housing providers can consider someone's criminal history in providing housing.

Equal Access Provides Gender-Related Protections

HUD uses the Equal Access Rule to ensure Equal Access for All.

- HUD programs are *open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status.*
- Individuals have access to housing **according to their gender identity.**
- No requirements to “prove” **gender identity.**

Gender-Related Protections, Continued

- Equal Access must be provided in all HUD-assisted programs, not just housing. Think about how this impacts services, day centers, etc.
- Providers must establish policies and procedures to mirror the requirement.
- Keep in mind the HUD definition of FAMILY in reference to protections.
- Who qualifies as a ‘family’ may surprise you.

Serving Families

- Must provide equal treatment for families, regardless of gender status of head of household, or family members.
- Family is defined by the consumer – whoever they *present with as family*, regardless of gender, marital status.
- Families cannot be involuntarily separated.
- Programs can elect to serve individuals or families only but must be consistent in treatment. (Note: Dedicated Plus status in 2021 required serving both)

Family Separation Example 1

- A family shows up to the local shelter to be housed as they are experiencing homelessness. The shelter employee tells the family we have no place in the shelter that will accommodate a 17-year-old boy, as older youth are not allowed to be with younger youth under age 5.
- 1) Can a shelter have a policy that excludes older youth from younger youth for health and safety purposes?

Family Separation 1: Response

An older youth cannot be separated from their family. The shelter must make accommodations for all family members.

- 1) An example could be putting the family in a sperate space or room together.
- 2) Partitioning off a space for the family to be together in congregate living.
- 3) Utilizing a space that accommodates more people, but leaving a bed empty as needed.

Family Separation Example 2

- June moved into her new unit after receiving Rapid ReHousing a month ago. She calls her housing specialist and says that her best friend/sister has still been living on the street and she wants her to move in and to add her to the household.
- 1) What is the next step the housing specialist should take?

Family Separation Example 2

- 1) June must be allowed to add her best friend/sister to the household, as she described her as a “sister”. This means she would be considered a family member covered under HUD’s Equal Access Rule.

Family Separation Example 3

- Bob has been on the street for nine years, and is chronically homeless, His name finally percolated on the By-Name-List for Permanent Supportive Housing, and outreach workers are looking for him in the places he's known to frequent, to offer him PSH.
- When they finally locate Bob he is with John and states they have a relationship and been living together on the street for the last 3 weeks, sharing a tent. Bob refuses to go to PSH without John.
- 1) Does the PSH have to serve the two males together?

Family Separation Example 3: Response

The Equal Access Rule does not allow HUD-assisted housing and services discriminate between households based on gender-identity, sex, etc.

The Case manager/Housing Provider needs to include both persons as the family household.

Bottom Lines

- When a person is accepted in temporary, emergency shelter, or another building with shared sleeping quarters or shared bathing facilities, **everyone must have equal access** to all amenities.
- Providers **must** take non-discriminatory steps as may be necessary, reasonable, and appropriate to calm the concerns raised by all residents, and as needed, update its admissions, occupancy, and operating policies and procedures.

Bottom Lines, Continued

- **In no case may a provider's policies isolate or segregate transgender or gender nonconforming occupants.**
- Rule of thumb – **Focus on calming or making changes with the aggressor.**
- Are staff and volunteers trained in handling conflict?
- What is your agency's protocol? How do you make everyone aware?

Why Do Self-Assessments?

Self Assessments Strengthen Operations and Avoid Problems

Some are mandated

- Annual Performance Reports
- Budget Reviews and Fiscal Audit
- Response to Monitoring Findings



Self-Assessments, Continued

Some inform planning, enhance operations, or ensure compliance.

- Tracking and verification of eligibility
- Equal Access
- Furthering Equity and Non-Discrimination
- VAWA
- Housing First Implementation



Equal Access Implementation Tools

Implementing the Equal Access Rules: A challenging responsibility.

Support Tools

Self-Assessment, Revised Oct. 2021

Decision-Tree

Case Examples Q & A

Public Notices & Posters

Program Files and Outcomes Review



Self-Assessment Policy & Implementation Tool

- Helps homeless housing and service providers assess their compliance with rules
- Is intended for agency INTERNAL USE – not as a monitoring tool
- Is Self-guided
- Points out regulations and best practices
- Has an index of definitions
- Offers an easy-to follow chart

Self-Guided Assessment of Policies and Implementation

- Guides agency staff through key aspects of:
 - Agency Policy
 - Harassment Guidelines
 - Resolving Violations
 - Ensuring Confidentiality
 - Addressing Safety

Excerpt From the Policy Tool

Item #	Attribute	Agency/Project has a Written Policy	Staff, Volunteers and Contractors are Trained to Comply with Written Policy	All Clients are Aware of the Agency/Project Policy
7	If the Agency operates a family shelter, the Agency does not expel or decline a client of any gender if they are otherwise eligible for services.	Develop a policy statement and procedures to ensure that staff, volunteers and contractors do not expel or decline a client of any gender if they are otherwise eligible for services.	Train staff, volunteers and contractors on the agency's commitment to not expel or decline a client of any gender if they are otherwise eligible for services.	Publicize the agency's commitment to serve all families, regardless of gender, in project literature."
Harassment Policy				
13	Agency includes transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.	In the list of protected groups within the agency's Policies and Procedures, add transgender and non-gender conforming. If your agency does not list protected groups, add a list and include this population.	Train staff, volunteers and contractors on the agency's inclusion of transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.	Educate clients on the agency's inclusion of transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.
Managing and Resolving Violations				
20	Agency has policy that if a client needs to be moved for harassment and safety concerns, the agency will have a preference to move the client with a bias.	Develop a policy statement and procedures that ensure if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Train staff, volunteers and contractors on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Educate clients on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.

An Example

AREA OF CONCERN	ATTRIBUTE	WRITTEN POLICY	TRAINING – Staff, Volunteer, Contractor	Clients Informed and Aware
Managing and Resolving Harassment	Agency has policy that if a client needs to be moved for harassment and safety concerns, the agency will have a preference to move the client with a bias (the aggressor)	Develop a policy statement and procedures that ensure if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Train staff, volunteers and contractors on the agency's policy that if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Educate clients on the agency's policy that if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.

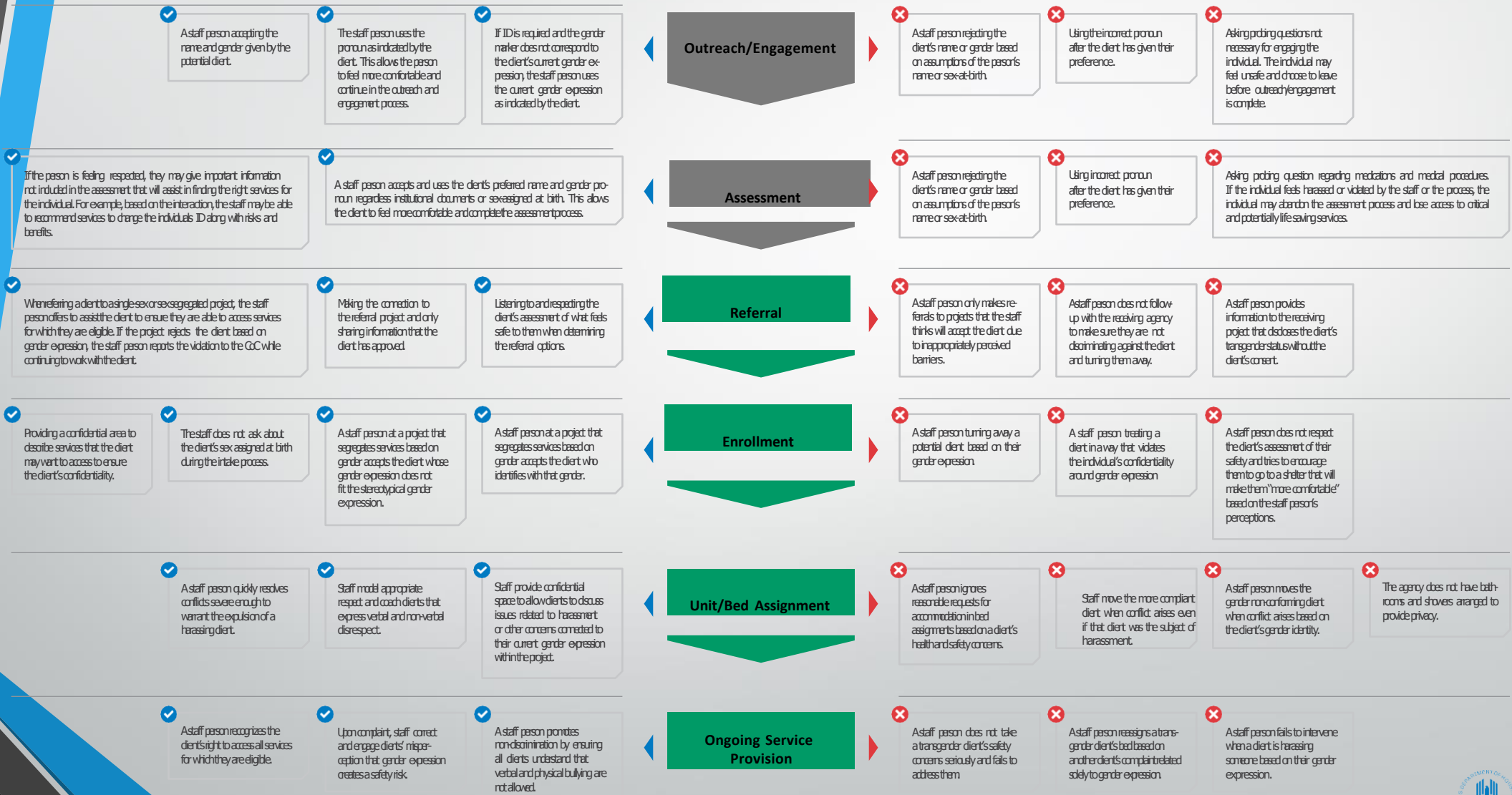
Equal Access Decision Tool - Process Behaviors

- Gives concrete examples of behaviors that either encourage or discourage equal access
- Has an easy-to read format
- Walks through each phase of the process
 - Outreach & Engagement
 - Assessment
 - Referral
 - Program Enrollment
 - Assignment to housing unit / bed
 - Offering On-going services and supports
 -

Supporting Equal Access Across the Full Spectrum of Services

Encouraging

Discouraging



Example at Intake

ENCOURAGING

When identification is required and the gender designation doesn't 'match' what the client states, the worker accepts and uses the identification expressed by the client.

DISCOURAGING

The worker states that the identification indicates a specific gender, asks probing questions "to resolve the conflicting information" or informs the client that they will need to record the 'correct' information in the official case file.

“In Your Pocket Guide”

- Engage respectfully
- Empower all – Consumer choice and perspective
- Inform everyone – Staff, volunteers, contactors, clients, constituents
- Identity starts with “I” (the client) – the Individual customer’s perspective
- No involuntary separation (also in CES guide)
- Manage harassment and conflict – focus on aggressor; do not further isolate those who are marginalized, targeted, part of the protected class

Example at the Referral Stage

ENCOURAGING

- When referring client for housing or services, staff:
- Listen to and respect the client's assessment of what feels safe to them when determining the referral options.
- Provides an array of options for consideration.

DISCOURAGING

- A staff person disagrees with 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.
- Staff does not follow up after referral to ensure secure placement.

Agency Self-Check

Frontline staff:

- Do you have an 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 you have an anti-discrimination policy?
- Do you 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 your projects have anti-discrimination policies?
- Do your support projects to train staff on the policy and how to implement it?
- Have we been clear that projects must comply with these requirements?

Requesting Gender Information at Intake

- **INTAKE or SCREENING QUESTIONS**

1. Legal Name: _____

2. Preferred Name: _____

3. What is your gender identity? (Check and/or circle ALL that apply)

Male

Female

Transgender

Do not identify as Male, Female or Transgender

Additional category (please specify): _____

Prefer to not answer

4. What pronouns do you use? _____

5. How would you like to be addressed? (nickname, first name, title and last name, other)

Examples to Help Achieve Goals

- **Strengthen** policies and services to improve the housing outcomes for people experiencing homelessness across your crisis response system
- **Implement** an equal access approach that includes emergency shelters
- **Align Actions** with the community's goals to promote equal Access
- **Provide** low-barrier, safe, and client-focused resources
- <https://endhomelessness.org/resource/emergency-shelter>

Sample Question #1

If I operate a project using HUD funds that serves single women and children, do I need to serve men with children?

- Yes
- No



Question #1 - Answer

HUD SAYS – YES!



- 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 otherwise eligible for the service, must be provided access to the same services, opportunities, 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.

Sample Question #2

- You operate a small facility w only two restrooms with showers.
 - A transgender client asks which restroom they should use.
 - Another client overhears the conversation, a becomes upset, expresses fear that the client will be ‘spying’ on them
-
- What do you say?
 - What can you do?



Question #2 -ANSWER

- Assure both clients that you want to help them to be able to shower comfortably.
- Because access is based on self-declared gender identity – ask which shower would be more comfortable.
- Offer the upset client a chance to shower privately later.
- Increase privacy, when possible, by:
 - Installing temporary or permanent curtains
 - Installing locks, doors, or partitions to toilet stalls
 - Create staggered shower schedules for everyone to ensure access and to enhance privacy*
- Expand Access: Make single-use facilities all-gender, meaning anyone can use them

Sample Question #3

- A 50 bed men's shelter in an old building with only congregate sleeping and bathroom facilities, with virtually no client privacy. One of the guests comes to a volunteer staff person and identifies himself as transgender.
- Do I allow them to stay in the main sleeping quarters?
- Do I have to provide them with a special sleeping arrangement if they request one?

Sample #3 Answer

- Not only can you allow him to stay in the main room 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.

Examples -Discrimination

- A coordinated entry call center tell the caller that there is nothing available for a person like them or 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.”

HUD POSTER

Make all constituents aware –

Staff

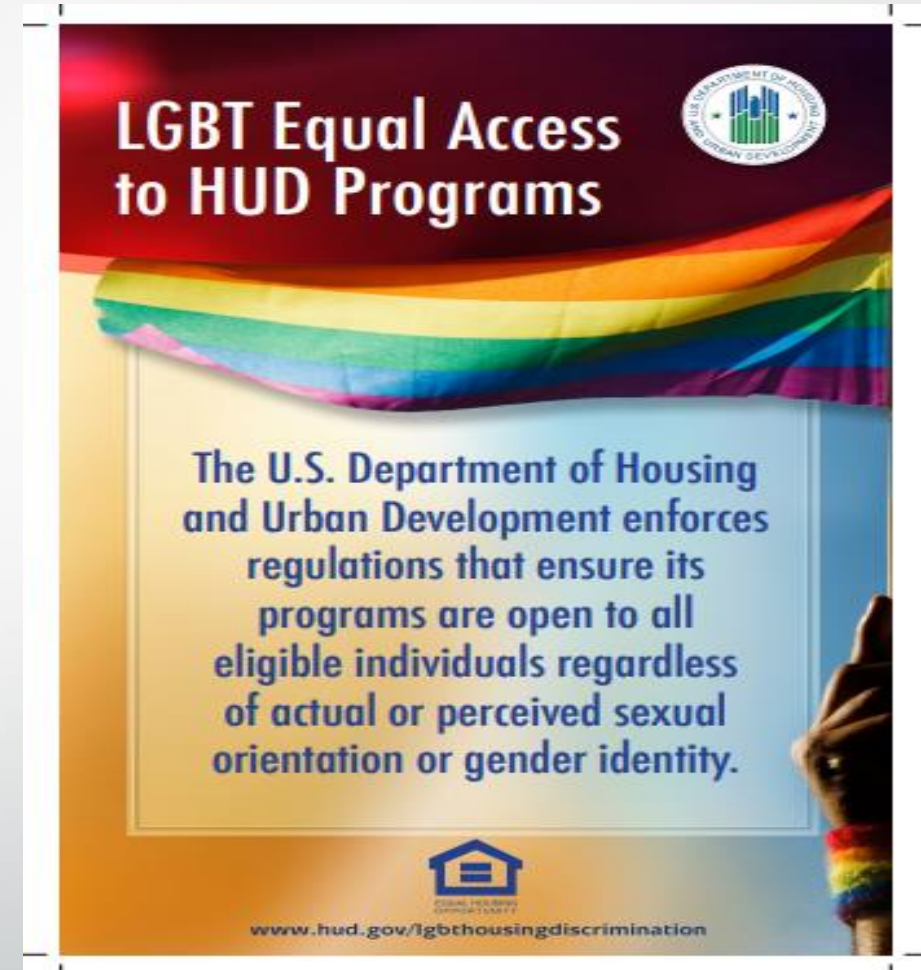
Volunteers

Contractors

Clients

Community Members

Publicly Post Notice



<https://www.hud.gov/sites/documents/LGBTFLYER.PDF>

Foster Cultural Awareness - Terms

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

Foster Cultural Awareness, continued

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. Change the description to fit the individual's gender identity pronoun.

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.

THE GENDER UNICORN






GENDER IDENTITY



GENDER EXPRESSION/ PRESENTATION



SEX ASSIGNED AT BIRTH

 FEMALE  MALE  OTHER / INTERSEX



SEXUALLY ATTRACTED TO



ROMANTICALLY/EMOTIONALLY ATTRACTED TO



Help Create a Culturally Aware Space

Gender Pronouns

Please note that these are not the only pronouns. There are an infinite number of pronouns as new ones emerge in our language. Always ask someone for their pronouns.

Subjective	Objective	Possessive	Reflexive	Example
She	Her	Hers	Herself	She is speaking. I listened to her. The backpack is hers.
He	Him	His	Himself	He is speaking. I listened to him. The backpack is his.
They	Them	Theirs	Themselves	They are speaking. I listened to them. The backpack is theirs.
Ze	Hir/Zir	Hirs/Zirs	Hirself/ Zirself	Ze is speaking. I listened to hir. The backpack is zirs.

Design by Landyn Pan

[transstudent.tumblr.com](https://www.tumblr.com/transstudent)
[facebook.com/transstudent](https://www.facebook.com/transstudent)
twitter.com/transstudent

For more information,
go to transstudent.org/graphics

TSER
Trans Student Educational Resources

Check List

- Agency policy references Equal Access
- Policies clearly identify identity protections.
- Procedures are in place to guide resolution of conflicts. (Give sample responses in training.)
- Written and on-line materials reflect gender awareness
- Public postings inform everyone of agency commitment to protecting consumer rights
- Regular training is provided when new staff, volunteers, or contractors join the organization
- Use scenarios to assess staff/volunteer understanding (test) of policies and protocols.
- Consumer feedback/file reviews/ and staff evaluations confirm implementation as a priority.

Other Tips

Housing First Fidelity

HUD Monitoring: File Maintenance: Eligibility; Policy

Non-Discrimination: Furthering Equity, Policies and Practices

Performance Improvement Plans for Areas found to be Problematic

QUESTIONS?

Thank you!

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