

Philadelphia CoC Non-Discrimination Policy Support for Providers

The Policy

In November 2017, the Philadelphia Continuum of Care Board adopted a [CoC-wide Nondiscrimination Policy](#), with an effective date of January 23, 2018, in order to ensure compliance with HUD's Equal Access rule, a requirement of Coordinated Entry compliance. Although providers are already responsible to comply with federal and local nondiscrimination and equal opportunity law, this policy requires that all projects funded through HUD CoC Program or Emergency Solutions Grant (ESG) Program grants or receiving other funds from the City of Philadelphia's Office of Homeless Services must have a policy prohibiting discrimination against persons based on his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, source of income, familial status, or domestic or sexual violence victim status.

The Workgroup

The Office of Homeless Services convened a Non-Discrimination Policy workgroup, comprised of providers to discuss the policy, anticipated challenges, and advise of resources needed by providers

The Resources

The following packet is a compilation of resources identified to support you and your organization as you move into compliance with the Philadelphia CoC Non-Discrimination Policy and related laws and regulations.

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Resources and References

Related Policies and Regulations

[Fair Housing Act \(42 USC 3601-19\)](#)

[The Philadelphia Code, Chapter 9-1100: Fair Practices Ordinance: Protections Against Unlawful Discrimination](#)

[Philadelphia Human Relations Commission Chart of Protections Against Unlawful Discrimination Under the Philadelphia Fair Practices Ordinance](#)

[HUD Equal Access Final Rule](#)

Mechanisms for Reporting Violations

[Office of Homeless Services Non-Discrimination Complaint Report Form](#)

[Philadelphia Commission on Human Relations intake form](#)

[HUD's Portal for Online Fair Housing Complaints \("File a Housing Discrimination Complaint" tab\)](#)

HUD Resources

[HUD 11/16/16 Equal Access and Gender Identity Rules Training](#)

[Supporting Equal Access Across the Full Spectrum of Services: Equal Access Decision Tree](#)

[HUD Equal Access Self-Assessment Tool for Shelters and Programs](#) (more information about this tool on Page 5 of this Resource Guide)

[Equal Access for Transgender People: Supporting Inclusive Housing and Shelters](#)

[HUD Notice: Appropriate Placement for Transgender Persons in Single-Sex Emergency Shelters and Other Facilities](#)

Resources for Making Your Program Safe and Welcoming for Members of the LGBT Community

[HUD Resources for Homeless LGBT Community](#)

[National Gay & Lesbian Task Force, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*](#)

[Injustice at Every Turn: A Report of the National Transgender Discrimination Survey](#)

[Trans and Gender Non-Conforming Youth Storytelling Movement](#)

[Anti-Violence Project Privileges Held by Non-Trans People](#)

Resources for Integrating Services for People of All Genders

[Example of Messaging about Integration: “AWARE is a gender-inclusive shelter” letter to partners and FAQ](#)

[FORGE Gender-integrated domestic violence shelters: Experience and Advice](#)

FORGE: Tipsheets for Providers

- [Tipsheet #1: Why Include People of All Genders in Shelters?](#)
- [Tipsheet #2: How Shelters Decide to Integrate All Genders](#)
- [Tipsheet #3: How Shelters Prepare for Gender Integration](#)
- [Tipsheet #4: Addressing Concerns from Stakeholders](#)
- [Tipsheet #5: Creating Trans-Inclusive Bathrooms in Shelters](#)
- [Tipsheet #6: Safety Measures in Gender-Integrated Shelters](#)
- [Tipsheet #7: Trans-Specific Shelter Supplies](#)
- [Tipsheet #8: Dealing with Conflict and Bias in Gender-Integrated Shelters](#)

Resources for Screening and Assessing for Abusive Dynamics and Intimate Partner Violence

[National Coalition of Anti-Violence Programs Introduction to Screening and Assessment for Abusive Dynamics Training Webinar Recording](#)

[New York State LGBTQ Intimate Partner Violence Network Assessment Tool for Power and Control in Relationships](#)

[The New York City Anti-Violence Project Primary Aggressor Assessment in LGBTQ Intimate Partner Violence Relationships Training Webinar Recording](#)

Language for Non-Profit Organization Board of Directors

In November, the Philadelphia Continuum of Care Board adopted a [CoC-wide Nondiscrimination Policy](#), with an effective date of January 23, 2018, in order to ensure compliance with HUD's Equal Access rule, a requirement of Coordinated Entry compliance. Although providers are already responsible for complying with federal and local nondiscrimination and equal opportunity law, this policy requires that all projects funded through HUD Continuum of Care (CoC) Program or Emergency Solutions Grant (ESG) Program grants or receiving other funds from the City of Philadelphia's Office of Homeless Services must have a policy prohibiting discrimination against persons based on his or her race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, source of income, familial status, or domestic or sexual violence victim status.

In ensuring that all participants are afforded equal opportunities, the policy draws directly from federal and local nondiscrimination and equal opportunity law, and includes definitions of terms, monitoring and compliance processes, links to resources, and an appendix regarding "Equal Access regardless of Sexual Orientation, Gender Identity, or Marital Status," as detailed in HUD's Final Equal Access Rule. The Equal Access Rule has been effective since March 2012, with a revision that became effective in October 2016 regarding accommodating the needs of transgender and gender non-conforming people in shelters. The rule states clearly:

[A] recipient or subrecipient receiving funds under the ESG or CoC Programs cannot discriminate against a group of people presenting as a family based on the composition of the family...the age of any member, the disability status of any member, marital status, actual or perceived sexual orientation, or gender identity.

This has several implications for homeless programs serving families with children:

- While it is acceptable for a shelter or housing program to limit assistance to households with children, it may not limit assistance to only women with children. Such a program must also serve the following family types, should they present, in order to be in compliance with the Equal Access rule:
 - Single male head of household with minor child(ren); and
 - Any household made up of two or more adults, regardless of sexual orientation, marital status, or gender identity, presenting with minor child(ren).
- Programs serving families with children **may not** limit assistance based on children's ages or gender, meaning that they may not screen out teenage boys or adult children up to age 21.
- Programs **may not** limit assistance based on the marital status or the gender(s) of the adult(s). They must serve couples as well as single parents. If a couple presents as a couple, regardless of their gender, they are to be served as a couple.

Organizations may not accept HUD funding if their programs do not comply with HUD's Equal Access Rule; any funding accepted despite non-compliance is subject to recapture. In addition, a housing provider who is found to have violated the Fair Housing Act may be liable for actual damages, injunctive and other equitable relief, civil penalties, and attorney's fees.

The Philadelphia CoC is committed to ensuring a service-delivery environment in which all individuals are treated with respect and dignity. The CoC and OHS will support providers in their efforts to adjust their operations to align with this policy and provide equal treatment and opportunity to all families.

Equal Access Self-Assessment Tool for Shelters and Projects

The Equal Access Self-Assessment Tool can be accessed [here](#). The Tool helps homeless housing and service providers assess their compliance with regulations and best practices. The tool is for organizations' internal use only and is intended for administrative staff. Front line staff may also benefit from reading the tool and assisting in the assessment process. The tool is not an official program guidance or legal advice that may be important to comply with local, state or federal privacy laws.

The Assessment Tab

The **Assessment Tab** includes 47 Equal Access goal statements and attributes related to those goals that reflect the Equal Access Rule and are informed by input from leaders in homelessness issues and transgender equality and fall under the following categories:

- Harassment Policy
- Managing and Resolving Violations
- Confidentiality Practices
- Data Collection
- Safety Practices
- Facility Enhancements
- Other Areas

For each of the 47 statements, providers are prompted to select from a drop-down "Yes" or "No" within the following three categories:

- The Agency/ Project has a Written Policy
- Staff, Volunteers, and Vendors are Trained to Comply with the Written Policy
- All Clients are Aware of the Agency/ Project Policy

Each response is weighted based on the elements that are key to ensuring equal access. Some of these goals build on each other and the items to the left must be in place before meeting standards that are to the right. As such, the items to the left have a higher weight value. Once you have responded to as many of the 47 items as possible, **click on the "Update Assessment Report" button** at the bottom of the "Assessment" tab.

The Priority Steps Tab

Once you've clicked the "Update Assessment Report" button at the bottom of the "Assessment" tab, the "Priority Steps" report tab will populate. **The Priority Steps** Tab gives a list of three steps to complete to help the agency move towards a more inclusive and safe environment

The Definitions Tab

The **Definitions Tab** includes a list of definitions that can be helpful when assessing and updating policies and standards.

The Library of Steps Tab

The **Library of Steps Tab** includes a set of all activities that can be carried out to meet challenges found during the assessment process. The 47 sets of steps correspond to the 47 goals listed in the Assessment Tab.

Sample Language for Program Participant Agreement to Comply with Non-Discrimination Policy
(Based on p. 10 of HUD's Equal Access for Transgender People guidebook)

Households without Children

[Program name] welcomes all people who need our services: men, women, transgender people, and non-binary people of different races, religions, ages, and backgrounds, who identify as straight, gay, lesbian, bisexual, queer, or with any other sexual orientation.

I will be respectful of the other program participants and staff. I understand that any 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 the discriminatory behavior to a supervisor or manager of the program. I can also call the Office of Homeless Services Comment Line at 215-686-4700 at any time if I feel that my concern has not been addressed by this organization.

The Office of Homeless Services will review discrimination complaints within 48 hours and notify participants of what they find.

Participant Name (printed):

Participant Signature:

Date:

Households with Children

[Program name] welcomes all families who need our services: parents with children, without regard to their gender or marital status or to the age of the children. We serve women, men, girls, boys, transgender people, and non-binary people of different races, religions, ages, and backgrounds, who identify as straight, gay, lesbian, bisexual, queer, or with any other sexual orientation.

I will be respectful of the other program participants and staff. I understand that any abusive language or actions are not acceptable. I will communicate these expectations to my children and address any incidents that may occur. 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 the discriminatory behavior to a supervisor or manager of the program. I can also call the Office of Homeless Services Comment Line at 215-686-4700 at any time if I feel that my concern has not been addressed by this organization.

The Office of Homeless Services will review discrimination complaints within 48 hours and notify participants of what they find.

Participant Name (printed):

Participant Signature:

Date:

Frequently Asked Questions

QUESTION	Is a shelter considered a “dwelling” under Fair Housing Laws?
RESPONSE	The Fair Housing laws define a dwelling as any building or portion thereof designed or intended for occupancy as a residence by one or more families. To protect against liability in a fair housing violation, housing and shelter providers should assume their programs involve “dwellings” and comply with the requirements of fair housing laws.
QUESTION	Does my program qualify to be sex or gender-segregated?
RESPONSE	<p>Single-Sex Shelters: A single-sex shelter is acceptable only under limited conditions in which the facilities meet both of the following requirements:</p> <ul style="list-style-type: none"> • Serving Individuals (households without children): only projects serving individuals can operate as single-sex facilities. A shelter that accepts families with children cannot be single sex. Section 576.102(b) of the ESG Interim Rule prohibits involuntary family separation, stating that, “[t]he age of a child under age 18 must not be used as a basis for denying any family’s admission to an emergency shelter that uses Emergency Solutions Grant (ESG) funding or services and provides shelter to families with children under 18.” There is no practicable way to operate a shelter that serves families with children as a single-sex facility since families with children will necessarily include household members of different genders; AND • Single structure with shared bedrooms or bathing facilities: The shelter must not be considered a "dwelling unit" or it must have a shared bathing facility. This policy, which applies to ESG, is stated most clearly in the CoC interim rule, at section 578.93: "The housing may be limited to one sex where such housing 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."
QUESTION	Can my program that serves families with children segregate units or rooms to serve specific household compositions? For example, can I designate one floor for male headed households and another floor for female headed households?
RESPONSE	<p>No. If the shelter or housing program is serving families, it is not permitted to segregate male-headed households from female-headed households. All family-with-children households must be served with the same services, staff, and facilities, regardless of family composition.</p> <p>The purpose of this policy and the regulations it mirrors is to protect people from being discriminated against because of their race, ethnicity, gender, etc. According to HUD, establishing specific units within a family shelter for use by certain families with particular types of members violates several elements of the Equal Access Rule, the Fair Housing Act, and HUD’s expectations regarding program design.</p> <p>Accommodating Families</p>

	<p>If a shelter has private rooms in which a family can stay together, then the family must be able to stay in a room together if they choose.</p> <p>In all cases (whether or not it's a congregate-style shelter), all families must be treated the same. For example:</p> <ul style="list-style-type: none"> • If the standard practice is to put down mats in a conference room for everyone who is considered "overflow" (beyond the capacity of the shelter beds), then it can shelter a family together in that space. <p>If the standard practice is to place a family in its own room, it would be acceptable to leave a bed empty to accommodate the family, (e.g. a family of four could stay in a unit with 5 beds, and the fifth bed could be open). In this example, HUD would not expect a provider to fill the 5th bed with an individual that is not a member of the family, so long as the provider documented the reasons for having open beds.</p>
<p>QUESTION</p>	<p>I operate a CoC-funded PSH program with SRO units. Participants share 3-bedroom apartments, with shared living space, kitchen, and bathroom. The bathroom is private with a locked door. Does this count as shared sleeping or bathing? Does this make this program exempt from having to comply with Equal Access Rule and other fair housing laws?</p>
<p>RESPONSE</p>	<p>This PSH program is not exempt from complying with applicable Equal Access and other fair housing laws. This PSH program must serve any person eligible for the program, no matter the person's sex or gender identity. Participants in this program have private sleeping and bathing areas.</p>
<p>QUESTION</p>	<p>The participants in my CoC-funded PSH program have lived here for many years, and our organization is concerned about how accepting participants who are a different sex or gender will affect the community. Can we take into consideration the potential trauma accepting participants of different sexes or genders will have on current participants in our decisions to accept said participants?</p>
<p>RESPONSE</p>	<p>Understanding that this is a major change to the way work has been done/ programs have been operated in Philadelphia and being sympathetic to the potential impact this may have on current participants in projects, the law clearly states that persons can not be denied access to a housing program because of how other participants in said housing feel about that person.</p> <p>Start talking to current participants now, if you have not already, and co-create plans with participants for managing the potential impact this shift may have on them. The purpose of this policy is to ensure that no one is discriminated against/ screened out of housing based on their race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, disability, marital status, age, source of income, familial status, or domestic or sexual violence victim status, ensuring that all participants are afforded equal opportunities, as stipulated in the Philadelphia Fair Practices Ordinance and Federal Law and regulations.</p> <p>OHS staff will communicate with participants moving through the CEA-BHRS process to ensure they are aware when they are being referred to program that recently started serving their household type.</p>

Definitions

Age discrimination refers to situations in which how old an individual is determines whether or not the person has access to certain terms, conditions or services. In Philadelphia, all ages are protected from housing discrimination.

Ancestry refers to the nation, country, tribe or other identifiable group of people from which a person descends. It also can refer to the physical, cultural or linguistic characteristics of the person's ancestors. Ancestry discrimination may often overlap with, but is not always synonymous with, national origin discrimination.

Color discrimination refers to discrimination based on shade or hue of skin, such as Light-skinned or Dark-skinned. It is important that a variety of hues exist in every ethnic and racial group; therefore, color discrimination is not always synonymous with race discrimination and can even occur within a single racial group.

Disability refers to a physical or mental impairment that substantially limits an individual's ability to perform a major life activity. The protections against disability discrimination cover (1) individuals who currently have a physical or mental impairment that substantially limits one or more major life activities; (2) persons who previously had a physical or mental impairment that substantially limits one or more major life activities; and (3) persons who are believed to have a physical or mental impairment that substantially limits one or more major life activities, regardless of whether that belief is correct. The protection against disability discrimination includes a duty to provide reasonable accommodations that would allow an individual with a physical or mental disability to access and obtain full enjoyment of employment, public accommodations or housing and real property.

Domestic or sexual violence refers to any act of domestic violence, sexual assault or stalking as defined by the Philadelphia Code or the sections of the Pennsylvania Code related to rape, incest, sexual abuse of children, unlawful contact with a minor, sexual exploitation of children, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, aggravated indecent assault or indecent assault.

Ethnicity refers to membership in a particular cultural group. It is defined by shared cultural practices, including but not limited to holidays, food, language, and customs. Ethnicity may often overlap with ancestry, and like ancestry discrimination, ethnic discrimination may often overlap with, but is not always synonymous with, national origin discrimination.

Family includes, regardless of actual or perceived sexual orientation, gender identity, or marital status: (1) A single person or (2) A group of persons residing together. Federal and local laws prohibit discrimination based on familial status, i.e., one cannot discriminate against households consisting of one or more individuals under 21 years of age and (1) a parent or other person having legal custody of the minor(s) or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis

of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. Projects funded under the CoC Program may limit housing to families with children, according to 24 CFR 578.93(b)(3). The age and gender of a child under age 18 must not be used as a basis for denying any family's admission to a project that receives CoC funds (24 CFR 578.93(e)).

Gender identity means the self-perception, or perception by others, as male or female, and shall include an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or sex assigned at birth; and shall include, but not be limited to, individuals who are undergoing or have completed sex reassignment. Programs must not ask participants to provide anatomical information or documentary (ID), physical, or medical evidence of gender identity.

Marital status refers to the state of being one of the following: Single, Married, Separated, Divorced, Widowed, Life Partner. Marital status discrimination includes discrimination based on assumed characteristics of people in particular marital status groups.

National origin refers to "the country where a person was born, or, more broadly, the country from which his or her ancestors came." National origin discrimination includes discrimination based on place of origin or on the physical, cultural, or linguistic characteristics of a national origin group. National origin discrimination includes discrimination on the basis of accent, manner of speaking, or language fluency.

Race discrimination includes discrimination on the basis of physical characteristics associated with a particular race, such as hair texture, facial features and hair color. Individuals of Hispanic or Latino ethnicity, or any ethnicity, may belong to one or more racial group. Race may be related to color, but is not synonymous with color. Race is associated with the following groups:

- American Indian/Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment
- Asian: Persons having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- Black/African American: A person having origins in any of the Black racial groups of Africa
- Native Hawaiian/Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- White: A person having origins in any of the original peoples of Europe and the Middle East
- Bi-racial or Multi-racial: All persons who identify with more than one of the five above races

Religious discrimination refers to discrimination based on an individual's religious observances, practices or beliefs. It also includes discrimination based on moral or ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views, regardless of how widespread the

particular beliefs or practices are. Religious discrimination may manifest itself as a preference for or against members of a particular religious group. It may also be evidenced as intolerance for observation of religious laws regarding dress, dietary habits, and work schedules.

Sex encompasses both the biological differences between men and women and the cultural and social aspects associated with masculinity and femininity (i.e., gender). Sex discrimination refers to discrimination based on one of the following categories: male/Female; pregnancy, child birth or related medical conditions; sex stereotyping; change in sex. Sex-specific programs are acceptable only under the limited conditions noted above.

Sexual orientation means one's emotional or physical attraction to the same and/or opposite sex (e.g. homosexuality, heterosexuality, or bisexuality). Sexual orientation discrimination includes discrimination based on perception of an individual's sexual orientation, whether that perception is correct or not.

Source of income refers to any lawful income, subsidy or benefit with which an individual supports himself or herself and his or her dependents, including, but not limited to, child support, maintenance, and any federal, state or local public assistance, medical assistance, or rental assistance program.