

Philadelphia Continuum of Care: Nondiscrimination Policy

Background

The Philadelphia Continuum of Care (CoC) is committed to a service-delivery environment in which all individuals are treated with respect and dignity. Each individual has the right to live in an atmosphere that promotes equal treatment and opportunity. Every service provider has the responsibility to prohibit unlawful discriminatory practices.

All programs must manage a responsible and sound operation in accordance with federal and local nondiscrimination and equal opportunity provisions, as codified in the [Fair Housing Act](#), Section 504 of the [Rehabilitation Act](#), Title VI of the [Civil Rights Act](#), Titles II & III of the [Americans with Disabilities Act](#), HUD's [Equal Access rule: 24 CFR 5.100, 5.105\(a\)\(2\) and 5.106\(b\)](#), and Philadelphia's [Fair Practices Ordinance: Chapter 9-1100 of the Philadelphia Code](#).

Applicability

This policy aims to ensure the safety, dignity, and well-being of all individuals and families housed in programs associated with the Philadelphia CoC. 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 (OHS) shall operate in accordance with this policy, following all applicable law. Programs must affirmatively provide equal access to their housing and supportive services in a nondiscriminatory manner that ensures that all persons are afforded equal opportunities.

Nondiscrimination Policy

Each provider must have a policy prohibiting discrimination against persons based on 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.

NOTE: Providers may not exclude potential participants based on their sex. **A single-sex shelter is acceptable only under limited conditions in which the facility meets both of the following requirements:**

Serving Individuals: only projects serving individuals can operate as single-sex facilities. A shelter that accepts families with children cannot be single sex. The ESG Interim Rule prohibits involuntary family separation, stating at 24 C.F.R 576.102(b) 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 24 C.F.R 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."

Definitions of Prohibited Discrimination

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 gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender related characteristics, or sex assigned to the individual at birth or identified in documents. 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.

Reporting

The Office of Homeless Services (OHS) has implemented a retaliation-free violation reporting policy to ensure adherence to policy regulations. Conduct prohibited by this policy and found to be unacceptable is subject to report, investigation, and response.

OHS encourages the prompt reporting of all incidents of discrimination and non-compliance with this policy. A formal procedure for the reporting of violations of the Non-Discrimination Policy has been instituted. It is established that all program participants must be advised at program intake of their legal rights, including an explanation of this policy, and must be given the written policy and instructions for reporting violations, as well as an accompanying OHS reporting form (both attached to this policy), and must sign to acknowledge receipt.

Initially, reporters should contact administrators of the specific program demonstrating non-compliance with concerns, except in cases where retaliation is feared. If the concern is not resolved after administrators are involved, reporters may contact OHS Monitoring and Compliance analysts by submitting the attached reporting form via fax 215-686-7142, email ohs-general@phila.gov, by calling the Office of Homeless Services Comment Line at 215-686-4700, or by mailing to Director of Monitoring and Compliance, Office of Homeless Services, Municipal Services Building, 1401 JFK Boulevard, Suite 1030, Philadelphia, PA 19102.

The acceptance, logging, tracking, investigation, and disposition of all reports will be centrally monitored by OHS Monitoring and Compliance analysts. The established time period for investigation of a report is 48 hours. Prompt investigation allows for constructive actions to be taken and relationships repaired, allowing housing placements to be sustained.

Monitoring & Enforcement

As CoC Collaborative Applicant, the Office of Homeless Services will make certain reasonable efforts are made to ensure that all CoC-funded, ESG-funded, and OHS-funded agencies are familiar with this policy and are adhering to the guidelines.

All funded projects are to keep timely written documentation regarding specifics of placement/treatment/incidents and exceptions regarding subject individuals and families for Office of Homeless Services' impromptu audit as merited.

Organizations will be found in violation of this Non-Discrimination Policy for actions including, but not limited to:

- Denial of services based on membership in a protected class;
- Publishing, circulating, issuing, displaying, posting, or mailing any written statement or utterance of any verbal statement disparaging any member of any protected class, that may result in exclusion from services or denial of fair treatment;

- Institution of rules limiting freedom of attire, especially affecting religious observance or gender identity, except in cases where decency, health, and safety are concerned;
- Real or implied creation of any quota system intent on limiting the number of protected class members to be served by an organization;
- Allowing an offensive and hostile living environment, promulgated by staff, other participants, or both, to discourage, demean, or otherwise disenfranchise participants as members of a protected class;
- Segregating any participant to a specific location based on protected class status;
- Refusal to make requested reasonable accommodations and modifications for members of a protected class; or
- Refusal or withholding of any accommodation, advantage, or privilege based on protected class status.

Confirmed acts of discrimination, harassment and misconduct will be dealt with appropriately. Responsive actions will include training, counseling and progressive correction measures. The purpose of these responses in cases of confirmed violation is to promote adherence to this policy.

Effective Date

This policy is effective as of January 23, 2018.

The Philadelphia CoC Non-Discrimination Policy was approved by the Philadelphia CoC Board on November 13, 2017, and was last approved on March 22, 2018.

Elizabeth G. Hersh
 Director, City of Philadelphia Office of Homeless Services
 Co-Chairperson, Philadelphia Continuum of Care Board

Date

John Ducoff
 Co-Chairperson, Philadelphia Continuum of Care Board

Date

References and Resources

Fair Housing Act (42 USC 3601-19): <https://legcounsel.house.gov/Comps/civil68.pdf>

The Philadelphia Code, Chapter 9-1100: Fair Practices Ordinance: Protections Against Unlawful Discrimination: [http://www.phila.gov/HumanRelations/PDF/FPO%20Ch9-1100%20-9-2016 %20nc.pdf](http://www.phila.gov/HumanRelations/PDF/FPO%20Ch9-1100%20-9-2016%20nc.pdf)

Philadelphia Human Relations Commission Chart of Protections Against Unlawful Discrimination Under the Philadelphia Fair Practices Ordinance:
<http://www.phila.gov/HumanRelations/PDF/ChartOfLegalProtections.pdf>

Philadelphia Commission on Human Relations intake form:
<http://www.phila.gov/HumanRelations/DiscriminationAndEnforcement/Documents/Property%20Discrimination.pdf>

HUD Equal Access Final Rule: <https://www.hudexchange.info/resource/1991/equal-access-to-housing-final-rule/>

HUD's Portal for Online Fair Housing Complaints:
https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

Materials from HUD 11/16/16 Equal Access and Gender Identity Rules Training:
<https://www.hudexchange.info/course-content/equal-access-and-gender-identity-rules-training/Implementing-HUDs-Equal-Access-and-Gender-Identity-Rules-Slides-2016-11-17.pdf>

National Gay & Lesbian Task Force, *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*: <https://srlp.org/wp-content/uploads/2012/08/TransitioningOurShelters.pdf>

APPENDIX A:

Equal Access Regardless of Sexual Orientation, Gender Identity, or Marital Status

HUD is charged with promoting the federal goal of providing decent housing and a suitable living environment for all. In January 2011, citing evidence suggesting that LGBT individuals and families do not have equal access to housing, HUD initiated rulemaking to ensure that HUD's programs remain open to all eligible persons regardless of sexual orientation, gender identity, or marital status. In order to support compliance with the Final Rule published on September 21, 2016, we include in this policy these additional guidelines for avoiding discrimination on these bases.

Common Definitions of Terms

Assigned Sex: Determination of gender at birth, usually male, female, or intersex.

Cisgender: A term used by some to describe people who are not transgender.

Gender Expression: External expression of gender identity exhibited through: behavior, clothing, hairstyle, body language, and voice. Not all people feel safe expressing their gender identity.

Gender Identity: Internal or innate sense of being male, female, or another gender, which may or may not match assigned sex at birth.

Gender Non-Conforming: A term used to describe some people whose gender expression is different from conventional expectations of masculinity and femininity. Not all gender non-conforming people identify as transgender; nor are all transgender people gender non-conforming.

Non-binary and/or genderqueer: Terms used by some people who experience their gender identity and/or gender expression as falling outside the categories of man and woman. They may define their gender as falling somewhere in between man and woman, or they may define it as wholly different from these terms. Not a synonym for transgender and should only be used if someone self-identifies as non-binary and/or genderqueer.

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, often shortened to "trans."

Transgender man: Person who was assigned female at birth but who identifies as a man.

Transgender woman: Person who was assigned male at birth but identifies as a woman.

Transitioning (Gender Transition): Process that some transgender people go through to live as the gender with which they identify rather than the sex assigned to them at birth. A complex process that occurs over a long period of time and can include various personal, medical, and legal steps. Transitioning **does not** require medical treatment. **Avoid** the phrase "sex change."

Transsexual: An older term that originated in the medical and psychological communities. Unlike transgender, transsexual is **not** an umbrella term. Many transgender people do not identify as transsexual and prefer the word transgender.

Access to Sex-Segregated Services and Facilities

All individuals seeking services have the right to placement and services that align with their gender identity. This right is never contingent upon having received any medical treatment to physically change the body. Likewise, those who do not identify as male or female have a right to placement and services that best supports their own personal safety. No person's placement or acceptance for service in a sex-segregated facility can be refused based upon a determination that their appearance or behavior does not conform to gender stereotypes. Facilities that legally separate participants by sex must serve all who identify with that gender, without requiring documentation.

Access to Family Services and Facilities

All families, regardless of composition or gender identities within the family, have the right to placement and services in accordance with their needs, including placement in congregate facilities. Perceived non-congruence of gender identity or expression of any family member does not constitute an acceptable reason for refusal of services/placement.

Access to Restrooms/Bathrooms/Showers/Personal Care Areas

Facility restrooms/bathrooms/showers and personal care areas must be open for use consistent with gender identity by all program participants. No barriers to the use and availability of restrooms/bathrooms/showers and personal care areas can be imposed due to appearance or bodily/physical/biological characteristics. No participant can be required to produce legal documentation of gender identity to determine appropriate use of facilities. It is a violation of the Equal Access Rule to institute specific provisions such as schedules by which transgender program participants can use bathrooms/showers and personal care areas separate from cisgender program participants.

Ensuring Safety & Privacy

All individuals receiving services and placement have a right to safety and privacy. In instances when safety or privacy concerns are brought forth, programs and organizations must demonstrate non-discriminatory applied response. Fair and open use of a program and facilities space and features is a right of all. Any client's discomfort with transgender and /or gender non-conforming identity is not cause for limiting the transgender or gender non- conforming person's enjoyment and use of the facility and its features, either physically or programmatically.

Affirming Use of Names and Personal Gender Pronouns

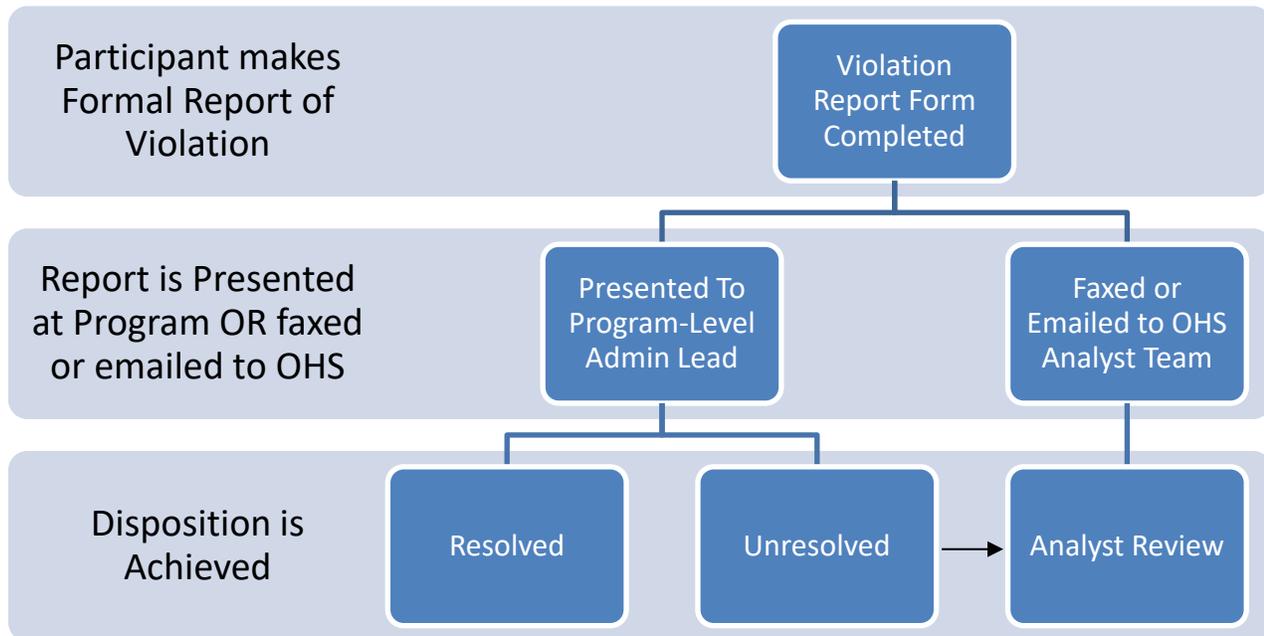
Program participants have the right to be called by preferred name and referred to by the gender pronoun that they designate and that matches their gender identity.

Homeless Management Information System (HMIS) Data Collection

With respect to gender questions in HMIS collection systems, program participants must be given all gender response choices and have their selection recorded accordingly.

Philadelphia CoC: How to File a Nondiscrimination Violation Report

1. At intake, all participants will be given the nondiscrimination policy and a Violation Report Form.
2. Participants can submit a Violation Report form to the program administration.
3. Program administration will address Violation Reports at the provider level.
4. If a participant is not satisfied with the outcome, or if a participant fears retaliation at the program level, a Violation Report can be filed with OHS by submitting the reporting form via fax to 215-686-7142 or email to ohs-generalinfo@phila.gov or by calling the Office of Homeless Services Comment Line 215-686-4700.
5. OHS will review violation reports within 48 hours and notify participants of the determination.



The Office of Homeless Services requires the reporting of all incidents of discrimination. Violation report forms are generated for all reports and logged into HMIS.

Office of Homeless Services Comment Line: (215) 686-4700



City of Philadelphia
Office of Homeless Services

Elizabeth G. Hersh
 Director

Municipal Services Bldg.
 1401 J.F. Kennedy Blvd., 10th Floor
 Philadelphia, PA 19102-1676

Office of Homeless Services (OHS)
 Non-Discrimination Violation Report

PLEASE SUBMIT THIS COMPLETED REPORT TO YOUR HOUSING PROGRAM ADMINISTRATOR, EMAIL TO OHS-GENERALINFO@PHILA.GOV, FAX TO 215-686-7142, OR MAIL TO DIRECTOR OF MONITORING AND COMPLIANCE, OFFICE OF HOMELESS SERVICES, MUNICIPAL SERVICES BUILDING, 1401 JFK BOULEVARD, SUITE 1030, PHILADELPHIA, PA 19102.

Site: EMERGENCY, TRANSITIONAL, PERMANENT SUPPORTIVE, or RAPID REHOUSING

Today's Date: _____ Date of Incident: _____ Time of Incident: _____

Person Making Report: _____ Phone: _____

Are you: Staff Participant Visitor Witness Other:

DESCRIBE HOW YOU WERE DISCRIMINATED AGAINST.
(WHERE WERE YOU? WHAT HAPPENED? WHO WAS INVOLVED?)

Person(s) Involved

Last Name	First Name		Staff	Client	Visitor	Witness	Phone Num

Attach additional sheets or use the back of this form if necessary.

Complainant's Signature _____ **Date** _____

It is illegal to discriminate against any person based on 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.

NOTE: Filing a Non-Discrimination Violation Report with the Office of Homeless Services does not preclude an individual from filing a discrimination complaint with the Philadelphia Commission on Human Relations <http://www.phila.gov/HumanRelations/DiscriminationAndEnforcement/Pages/FilingAComplaint.aspx>, the U.S. Department of Housing & Urban Development, https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint, or any other appropriate agency.