

Texas Balance of State Continuum of Care

Anti-Discrimination and Equal Access Policy

Approved by the CoC Board on: November 8, 2017

Effective Date: November 8, 2017

The Texas Balance of State Continuum of Care (TX BoS CoC), represented by the CoC Board and Texas Homeless Network as the CoC Lead Agency, and the agencies receiving U.S. Department of Housing and Urban Development (HUD) Continuum of Care (CoC) Program and Emergency Solutions Grant (ESG) funding are committed to complying with all requirements regarding the HUD Equal Access Rule and all other all federal, state and local non-discrimination and privacy laws. The intent of this policy is to standardize the quality of assistance persons experiencing homelessness can expect from homeless services projects across the CoC's geographic area. CoC Program-funded projects and ESG Program-funded projects are required to comply with all applicable anti-discrimination and equal access regulations. It is recommended that projects that do not receive funding from any federal source follow this policy to further the CoC's goals of transparency, equal access to quality projects, and service standardization. Following this policy will ensure that the project is using best practices.

Background

Years of research and countless studies have repeatedly shown that discrimination threatens not only access to housing but the stability of communities. Members of the Lesbian, Gay, Bisexual, and Transgender (LGBT) community are more likely to become homeless, and once homeless, more likely to endure discrimination and harassment that extends their homelessness. LGBT youth experiencing homelessness are at particular risk. [Between 20 and 40 percent of all homeless youth identify as members of the LGBT community](#), and for them, homelessness or the threat of homelessness frequently forces youth into survival behaviors that jeopardize their wellbeing and safety.

It is indispensable for all service providers in the TX BoS CoC to ensure they are not further contributing to discrimination and marginalization and ensure individuals receive fair treatment when accessing programs. The following policies provide an overview of requirements by the U.S. Department of Housing and Urban Development (HUD) and our adopted CoC wide anti-discrimination policy. Compliance with the Equal Access rule requires action on the part of the CoC Lead Agency, CoC Board, CoC and ESG Program-funded projects, and the CoC as a whole. This multi-level approach is reflected in the structure of the policy.

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Regulatory Citations

- [Equal Access in Accordance With an Individual's Gender Identity in Community Planning and Development Programs \(2016\)](#)
- [Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity \(2012\)](#)
- [24 CFR §5.105\(a\)\(2\) Equal Access to HUD-assisted or insured housing](#)
- [24 CFR §5.106 Equal Access in accordance with the individual's gender identity in community planning and development programs](#)

Equal Access Policy

CoC Program recipients shall not discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, age, or gender, nor on the basis of LGBTQ status or marital status.

HUD CPD grant-funded housing and services shall be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status. Program recipients will ensure equal access to programs for all individuals and their families; provide housing, services, and/or accommodations in accordance with a clients' gender identity; and determine eligibility without regard to actual or perceived sexual orientation, gender identity, or marital status.

Equal Access Procedures for the CoC

- The CoC will provide annual and as-needed training to CoC Program recipients and agency staff regarding the Equal Access Rule and related requirements.
- The CoC and HUD CPD Grant Program recipients will use appropriate, inclusive language in communications, publications, trainings, personnel handbooks, and other policy documents that affirms the CoC's commitment to serving all eligible clients in adherence with the HUD Equal Access Rule.
- The CoC and HUD CPD Grant Program recipients will continue to develop partnerships with organizations that can provide expertise around the process of changing gender markers on identification and benefit applications or will ensure subject matter expertise among staff.
- The CoC and HUD CPD Grant Program recipients will support all project participants in understanding their privacy rights and the implication of releasing information.

Equal Access Procedures for CoC Program- and ESG Program-Funded Agencies

- CoC and ESG Program recipients will ensure that staff, volunteers and contractors understand that a project participant may not present as the way they identify.

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- CoC and ESG Program recipients will ensure all staff, volunteers and contractors maintain the confidentiality of a project participant's legal name and gender at birth and understand the potential impact that disclosure can have on a project participant's progress to self-sufficiency.
- When possible, CoC and ESG Program recipients will ensure that construction or property rehabilitation includes and promotes privacy and safety in sleeping area, bathrooms, and showers.
- If a CoC and ESG Program-funded project offers only congregate bathrooms or showers, all urinals/toilets and shower heads will have individual stalls to support client safety.
- CoC and ESG Program recipients will offer individual gender-neutral bathrooms and gender-neutral shower rooms, where feasible.
- CoC and ESG Program recipients will mediate and resolve conflicts between project participants in a way that is respectful, fair and equitable.
- CoC and ESG Program recipients will take immediate action to resolve inappropriate behavior, harassment, or equal access issues by any person (staff, volunteers, contractors or project participants).
- Agencies must make the Equal Access Rule policies and procedures publicly available on the agencies' websites and through other commonly used public notification processes. Agencies must ensure staff, volunteers and contractors are provided a copy of the Agency's policies and practices regarding Equal Access requirements and are regularly trained to comply with all anti-discrimination policies and procedures.

Equal Access Procedures for CoC Agency Staff

- Agency staff shall not consider a project participant or potential project participant ineligible because their appearance or behavior does not conform to gender stereotypes and will serve all individuals that are eligible for the project.
- Agency staff shall not ask questions or seek information concerning a person's anatomy or medical history beyond elements necessary for the purpose of providing services.
- If a project participant needs to be moved for harassment and safety concerns, agency staff will have a preference to move the project participant with a bias (e.g., move the individual who is having concerns towards the person who may not conform to mainstream gender expression/identity.)
- Agency staff will honor the request of an individual for a private space to complete intake and data collection.
- Agency staff will honor the request of an individual for accommodations based on their personal safety and privacy concerns, whenever feasible. An "accommodation" will not be given as a "requirement."
- Gender identity is not required to match the gender listed on the person's identification card or documents.
- Agency staff will assist the project participants without identification documents to understand the resources available to obtain identification documents.

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- Agency intake materials will allow for project participants to indicate their legal name and the name they prefer to be called.
- Clients with prescribed hormones or other medications as part of their gender-affirming healthcare regime will have access to those medications.
- Agency staff and project participants will use participants' preferred gender and pronoun and support participants' gender identity.
- During risk-based conversations, agency staff will be alert to and correct any misinformation or inaccurate conclusions that transgender project participants threaten the health or safety of other clients solely based on their nonconforming gender identity/expression.
- Agency staff will keep a project participant's transgender status confidential, unless the participant gives permission to share this information.
- Agency staff will ensure that only essential staff, identified by administrators, are told about a project participant's transgender status, to ensure equal access and safety.
- Agency staff will ensure that when a project participant's gender identity and sex assigned at birth differ, that difference is treated as confidential medical information and may not be disclosed without specific, time-limited written participant consent. Similarly, a project participant's legal name will be treated as confidential information.

Anti-Discrimination Requirements for Continuum of Care (CoC) Program Recipients and Emergency Solutions Grant (ESG) Program Recipients

Recipients and sub-recipients of CoC Program- and Emergency Solutions Grant (ESG) Program-funded projects must comply with the nondiscrimination and equal opportunity provisions of Federal civil rights laws as specified at 24 C.F.R. 5.105(a), including, but not limited to the following:

- Fair Housing Act prohibits discriminatory housing practices based on race, color, religion, sex, national origin, disability, or familial status;
- Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color or national origin under any program or activity receiving Federal financial assistance; and
- Title II of the Americans with Disabilities Act prohibits public entities, which includes state and local governments, and special purpose districts, from discriminating against individuals with disabilities in all their services, programs, and activities, which include housing, and housing-related services such as housing search and referral assistance.
- Title III of the Americans with Disabilities Act prohibits private entities that own, lease, and operate places of public accommodation, which include shelters, social service establishments, and other public accommodations providing housing, from discriminating on the basis of disability.

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In addition, HUD's Equal Access Rule at 24 CFR 5.105(a)(2) prohibits discriminatory eligibility determinations in HUD-assisted or HUD-insured housing programs based on actual or perceived sexual orientation, gender identity, or marital status, including any projects funded by the CoC Program, ESG Program, and HOPWA Program. The CoC Program interim rule also contains a fair housing provision at 24 CFR 578.93. For ESG, see 24 CFR 576.407(a) and (b), and for HOPWA, see 24 CFR 574.603.

Policies on Faith Based Activities

HUD CPD Grant Program¹ recipients, sub-recipients, and agency staff shall not, in providing program assistance, discriminate against a project participant or prospective project participant on the basis of religion or religious belief. In providing services supported in whole or in part with federal financial assistance, and in their outreach activities related to such services, projects shall not discriminate against current or prospective project participants on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

Strategies to Implement the Equal Access to Housing Rule

CoC Program- and ESG Program-funded projects must develop in writing, implement, and document procedures to ensure implementation of the Equal Access Rule. Specific strategies or procedures may include but are not limited to Inclusive Policy Standards that:

- ❖ Ensure placement and accommodation are made in accordance with an individual's gender identity.
- ❖ Ensure agency uses appropriate, inclusive language in communications, publications, trainings, personnel handbooks and other policy documents that affirms the agency's commitment to serving all eligible project participants in adherence with the Equal Access Rule.
- ❖ Have an anti-harassment policy that includes transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.
- ❖ Have a formal grievance process that is prompt, transparent and consistent in managing and resolving violations.
- ❖ Include confidentiality practices that keep a project participant's transgender status confidential, unless the participant gives permission to share this information.
- ❖ Allow for project participants to request a private space for intake and data collection.
- ❖ Outline safety practices including respecting the project participant's evaluation of their own safety practice with regard to proposed housing options and accommodating project participants' reasonable requests regarding safety.

¹ HUD CPD Grant Program refers to a grant provided under Community Planning and Development (CPD) programs, including: HOME Investment Partnerships program (24 CFR part 92), Housing Trust Fund program (24 CFR part 93), Community Development Block Grant program (24 CFR part 570), Housing Opportunities for Persons With AIDS program (24 CFR part 574), Emergency Solutions Grants program (24 CFR part 576), Continuum of Care program (24 CFR part 578), or Rural Housing Stability Assistance Program (24 CFR part 579).

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Definitions

Assigned/Designated Sex at Birth: Frequently a binary designation of "male" or "female," based on the person's internal or external anatomy at birth, assigned at birth, typically by a medical professional (e.g. sex listed on birth certificate). It may or may not correspond to one's gender identity.

Cis-Gender: refers to a non-transgender person. The prefix "cis" means "matches." So, cis-gender means that one's sex assigned at birth "matches" one's gender identity.

Gender Expression: external expression of gender identity (note that many times people do not feel they can safely express their gender identity). It is exhibited through: behavior, clothing, hairstyle, body language, and voice, does not always correspond to a person's gender identity and may change over time or even day-to-day.

Gender Identity: 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.

Gender-Neutral: language used to describe "all gender" or unisex spaces, (i.e. gender-neutral or all gender bathrooms), language about relationships (spouse or partner, instead of wife/husband or boyfriend/ girlfriend), etc.

Gender Non-Conforming refers to someone who does not conform to traditional gender roles or stereotypes. Traditional roles and stereotypes vary based on different cultural and societal ideals. Individuals may be perceived as having a different gender than their outward appearances (behavior, clothing, hairstyle, body language, voice).

Sexual orientation: One's emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality, heterosexuality, or bisexuality). 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.

Trans Man: Someone who lives or identifies as a man, but was assigned female at birth. May or may not have undergone medical treatments. Sometimes referred to as "Female-to-Male" or "FTM," but these terms may not be preferred, as they can over-emphasize that the person was born female rather than his current identity.

Trans Woman: Someone who lives or identifies as a woman but was assigned male at birth. May or may not have undergone medical treatments. Sometimes referred to as "Male-to-Female" or "MTF," but these terms may not be preferred, as they can over-emphasize that the person was born male rather than her current identity.