HUD's Equal Access Rule

November 30, 2023
Torrie Kopp Mueller

AGENDA

01 Review Terminology

02 Discuss Equal Access Rule

03 Discuss Scenarios

04 Review HUD's Tool & Resources

Information in this presentation is from HUD's training on Equal Access

Language is Important

Gender Identity: One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. **Gender identity can be the same or different from their sex assigned at birth.**

Gender Expression: External appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

Sexual Orientation: An enduring emotional, romantic or sexual attraction to other people. An individual's sexual orientation is often described as gay, lesbian, bisexual, heterosexual, or asexual.

Source: Human Rights Campaign

Language is Important

Transgender: umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation.

Transitioning: A series of processes that some transgender people *may* undergo in order to live more fully as their true gender. Typically includes:
Social transition: changing name & pronouns
Medical transition: hormone therapy or gender affirming surgeries
Legal transition: changing legal name and sex on government identity documents

Non-binary: An adjective describing a person who does not identify exclusively as a man or a woman. Non-binary people may identify as being both a man and a woman, somewhere in between, or as falling completely outside these categories.

Source: Human Rights Campaign

LGBTQIA+

Lesbian
Sexual Orientation in which a woman is attracted to another woman. Modern use of the word emerged in the 1890s in various medical and psychology texts.

Bisexual
Sexual Orientation in which a person is attracted to all genders. By the 1990s, the acronym expanded to include not just lesbian and gay individuals, but also bisexual individuals.

Queer
An adjective used by some individuals whose sexual orientation is not exclusively heterosexual. This umbrella term includes individuals who have nonbinary, gender-fluid, or gender nonconforming identities. Once considered a pejorative term, queer has been reclaimed by some LGBTQIA+ individuals to describe themselves; however, it is not a universally accepted term even within the LGBTQIA+ community.

Questioning
The Q in LGBTQIA+ also stands for questioning to include those who are still exploring their gender or sexual identity.

Adding a "+" to the acronym is an acknowledgment that there are non-cisgender and non-straight identities that are not included in the acronym," which is inclusive of gender nonconforming, gender fluid, nonbinary, and gender expansive individuals.

Gay
Sexual Orientation in which a man is attracted to another man. However, is also used generally to refer to all non-heterosexual sexual orientations. The term was originally used as a slur throughout the 20th century but was reclaimed by the community in the 1960s, around the time of the Stonewall Uprising.

Transgender
A term used to describe individuals whose gender identity is different than they were assigned at birth. By the 1990s, common use of the acronym expanded to include transgender individuals, who were increasingly embraced as part of the movement.

Intersex
Individuals who are born with a combination of both male and female sex characteristics.

Asexual
Individuals who experience a complete or partial lack of sexual attraction or lack of interest in sexual activity with others.

HUD's Definition of Family

Family includes any group of persons presenting for assistance together with or without children and does not take into account: marital status, actual or perceived sexual orientation, gender identity, age, relationship, or disability status.

Any group of people that presents together for assistance and identifies themselves as a family is considered to be a family and must be served together as such if they meet other program eligibility requirements.

HUD's Equal Access Rule

- In effect October 21, 2016
- Equal access is provided in all HUD assisted programs without regard to a person's actual or perceived sexual orientation, gender identity, or marital status
- Providers must update polices & procedures to reflect requirements

HUD's Equal Access Rule

- To ensure compliance with HUD's Equal Access Rule, HUD-funded providers must:
  - Determine eligibility for housing regardless of a person's sexual orientation, gender identity, or marital status
  - Grant equal access to HUD-assisted housing programs or facilities consistent with a person's sexual orientation, gender identity, or marital status
  - Not ask people to provide anatomical information or physical or medical evidence of their gender identity
  - Address privacy concerns raised by any residents or occupants

Is my project required to comply with the Equal Access rule?

Yes.

All HUD programs, from sheltering to mortgage programs must comply with the Equal Access Rule. This includes all Community Planning and Development Programs:

- CDBG (Community Development Block Grant)
- HOME (HOME Investment Partnership Program)
- CoC (Continuum of Care)
- ESG (Emergency Solutions Grant)
- HOPWA (Housing Opportunities for Persons with AIDS)
- Housing Trust Fund
- Rural Housing

Why is this rule important?

A nationally representative survey conducted by the Williams Institute between 2015 and 2019, found that 17% of LGBTQIA+ adults reported they experienced homelessness at some point in their lifetime.

According to the Trevor Project, 28% of LGBTQ youth overall and 38% of transgender and non-binary youth reported having experienced homelessness or housing instability at some point in their lives.

Family Definition and CoC & ESG Projects

If a CoC- or ESG-funded project accepts any household with children, it must accept all households with children.

Permitted to serve a single sex if the projects:
- Serve adults only (no minors)
- Have a physical configuration such that privacy is a concern, specifically shared bathing or sleeping areas.

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 shelter guests comes to a volunteer staff person and identifies as transgender. Do I allow them to continue using the same facilities as other clients?

HUD's Response

1. Not only can you allow it, but are required to do so.
2. Do not isolate guests based on their transgender status.
3. A guest may request an accommodation however, staff may not impose or require a guest accept an accommodation.
4. Treat all guests that are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.

At my women's shelter, where everyone sleeps in a room with 3 roommates, a person is referred to the project by an outreach worker. We don't have any extra space to house transgender guests. When they arrive the individual refuses to pick male or female and says they don't identify with either. What should I do?

HUD's Response

1. Ask the client, "We serve women at this project, do you feel your gender identity more closely aligns with the housing and services we offer?" If so, enroll the client.
2. HUD does not require project participants to select male or female.
3. "Extra" space isn't necessary to serve transgender or non-binary guests seeking services. Serving these guests is part of what HUD funded services do as part of their usual work, not as an added bonus.

Setting: A small rural shelter houses 20 men and 8 women in separate bedrooms of four to a room. Staff person Jennifer walks onto the porch of the shelter used by guests to smoke. Two guests – Kelly and Dan – are on the porch having a conversation as Jennifer enters.

Kelly:	You know she shouldn't even be allowed to stay in my room; she's not even a girl!
Dan:	What do you mean?
Jennifer:	Kelly, could you come speak with me now in the staff office?
	In the staff office:
Kelly:	You have no right to pull me in here!
Jennifer:	I heard you say that one of your roommates isn't a woman and should not be allowed to stay in the women's rooms. Can I ask to whom you are referring?
Kelly:	Please! You know which one.
Jennifer:	The staff is very careful to ensure that all clients assigned a bed are eligible to be here, have nowhere else to go and follow the rules. There is no one in the women's section who doesn't belong there.
Kelly:	That's not fair. She is a guy and makes me really uncomfortable. She shouldn't be allowed to stay in my room.
Jennifer:	Staff may use any room at this shelter to serve people who need our help. No room or bed belongs to an individual client. If you have specific concerns regarding a resident, I'm happy to work with you to resolve them; however, if you are still uncomfortable here, we may not be able to meet your needs.
Kelly:	I'm worried she's watching me undress when I get ready for bed. It reminds me of another situation in my past. I have a really hard time falling asleep when I'm reminded of it.
Jennifer:	I know it's tough to share things like that; thank you for trusting me. Let's talk about how you and I can help you feel safer without focusing on any other client. Maybe you could use the private single bathroom when you change for bed? Please remember, it is a violation of the rules to harass anyone or use derogatory terms. It can really make people who need our help feel unwelcome, intimidated and excluded. If you were on the receiving end of that treatment, you can imagine how unsafe you might feel. If it happens again, we'll have to talk about whether this project is the right fit for you.

HUD's Response

The staff person intervened quickly once Kelly and Dan's conversation violated the rule to respect all individuals.

The staff person preserves confidentiality by pulling Kelly aside to discuss the matter privately.

The staff person respects Kelly's feelings of discomfort and acknowledges the difficulty of sharing honestly.

The staff person upholds anit-discrimination standards by not moving the transgender guest.

Additional Ideas for Intervening

"I need you to stay focused on your own progress. Everyone at this shelter needs to be here and is eligible for services."

"Every client needs to be here. If you are so uncomfortable, this may not be the right place for you. Let's discuss some other options for you."

"The staff is responsible for enforcing the rules here. If you are concerned that someone is violating a specific rule, please explain so I can help."

Equal Access Agency Assessment Tool

Helps providers assess their compliance with regulations and best practices.

For agency internal use only.

Intended for administrative staff, however, front line staff may benefit from reading the tool and assisting in assessment process.

Assesses the following areas: general adherence, harassment policy, managing and resolving violations, confidentiality practices, data collection, facility enhancements

Once assessment is complete, a Priority Steps Report is generated.

The tool can be found [here](.).

RESOURCES

- [HUD's Equal Access Rule](#)
- [Human Rights Campaign](#)
- [Equal Access Expectations Training Scenarios](#)
- [Equal Access for Transgender People: Supporting Inclusive Housing and Shelters](#)
- [Model Policy and Legal Guide for Homeless Shelters & Housing Programs](#)

Questions?

Torrie Kopp Mueller,
tkoppmueller@cityofmadison.com

Sarah Lim,
slim@cityofmadison.com

THANKS!