

# Equal Access and Gender Identity Rules Training PowerPoint Notes

*\*\*Italics indicate notes for local trainers*

## Slide 1:

Thank you so much for being here today.

We're here to talk about two new HUD rules—the importance of these rules, the actual requirements, and the steps necessary to strengthen projects as they provide services to households in need.

## Slide 3:

The most important reason we are here today is to better understand communities we are trying to serve – we want to share one family's recent experience.

## Slides 4-11:

*Depending on the type of training and technology available, you can either show the video of George, or play the audio and use the timed slides 5-11.*

## Slide 12:

*Script from Abby Miller, SNAPS Specialist delivering webinar:*

I know that you're here to understand how to implement the new gender identity rule, and I'm here for that too, but I also want to acknowledge that we're here for George and other people like him who need the same opportunities that all of us need. And I want to acknowledge that you're here because you care deeply about the work you do and the people you serve. This work can be heartbreaking but also so rewarding, and what I think you'll find with our new rule is that it's actually focused on the people in your projects, the same way you are. One of my bosses, Deputy Assistant Secretary Ann Oliva, said something recently that's stuck with me—that we are here to serve the people who show up, and not the people we think will show up. You can see that principle in so much of what we're asking you to do as projects—Housing First is all about meeting people where they are, and not expecting them to be a certain way before you help them.

Coordinated entry is about working as a community to serve the people who need our help the most. This rule is another aspect of these principles—we are very simply saying that people must be served based on their gender identity—the gender they know themselves to be. And we're not going to force them to prove their gender identity in any number of ways that make people feel demeaned, rejected, threatened, or less than.

Because the reality is that any of us would feel threatened if we were asked about our body parts to verify that we are who we say we are, or if in the most vulnerable time in our lives, we were told that we had to go jump through hoops with state laws about IDs just to get a safe night's sleep.

The reality is that transgender folks are twice as likely to be homeless as their non-transgender counterparts. That fact alone tells us how critical this work is. And once they're homeless, we know from the research that they're not getting served correctly. They are turned away or placed inappropriately the majority of the time. And if they are served, over a quarter of people experience harassment and assault within shelters, both by other residents and staff or volunteers.

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As a field, we have some learning to do. That's ok to admit, and I hope that you can hear me when I say that we are all learning together. The fact that you're here today is proof that you want to learn something new, or maybe you're already doing this and want to hear if there's anything else you should be doing. If at any point during this training, you feel overwhelmed by language or new ideas, it's ok to take a breath, remember that you'll get the slides afterwards, and just say to yourself a version of the golden rule, with an important change—treat others as they want to be treated. That's basically what the gender identity rule says.

It's easy in all this discussion about regulations and language to forget that people are at the center of what we all do. We thought George may be effective at helping us to keep that in mind as we go through today's training.

### Slide 13:

*Script from Abby Miller, SNAPS Specialist delivering webinar:*

I'm going to ever so briefly go through the requirements of the new gender identity rule, but you're going to get more of a concrete sense of how these requirements are used to address situations in your project as we get into the meat of the webinar.

I'll take you back briefly to the 2012 Equal Access Rule. That rule said pretty simply that equal access must be given in HUD funded programs, regardless of sexual orientation, marital status or gender identity. That's been in effect for over four years now, but we found some areas that needed further requirements for projects.

We specifically needed to nail down our policy on how transgender people were to be placed and served in single-sex projects. You can see from this slide, we kept it simple—projects must place, serve and accommodate people in accordance with their gender identity, and that questioning about anatomy or other evidence of one's gender identity is not allowed.

It's important to understand why that's not allowed, and there are two main reasons. First, we all know that people experiencing homelessness do not have access to a lot of resources. The same is true for transgender people experiencing homelessness. That means that hormones, surgeries, and other modifications that people might make to their appearance may not actually be available, and that includes having identification documents that reflect that person's gender identity.

Depending on the state, it can be very difficult to get IDs updated, so using that as a verification creates a barrier for these folks. The other reason that intrusive questioning or asking for anatomical or physical information is that staff may have assumptions about what a transgender person should look like or what a woman or man should look like, and those assumptions may differ from the person's appearance. That doesn't mean the person's appearance is wrong or bad. When projects make questions like these a condition of entry to the project, it creates an often insurmountable barrier for these clients.

Finally, there is an additional requirement that projects take non-discriminatory steps to address clients' privacy concerns. The important thing to note here is that steps are taken when a client raises concerns, and not that a project treats transgender people differently as a policy. The easiest example of this is

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when a project has a policy of putting all transgender clients in a separate room from everyone else. That isolates and segregates people because of their transgender status. Instead, projects must provide equal access to all clients and only take measures to address privacy concerns when a client raises a concern. This is part of good person-centered care and low-barrier principals, and now it's also a requirement in the amended rule. Again, we encourage you to use the comprehensive TA materials to help you work through these policy and procedure decisions and implementation.

I expect that you're asking what actually needs to get changed, and the first thing is making sure that your policies and procedures reflect these requirements. We are going to describe what makes a good policy, as well as thinking about staff and volunteer training and communicating clearly with residents that the requirements exist.

### Slide 14:

*Script from Abby Miller, SNAPS Specialist delivering webinar:*

Many of you have experienced changes in HUD regulations and policies in the past and may have questions about whether this regulation will be changing. I'd like to address that up front so you have a sense of the future. Federal rulemaking—the process of creating a regulation—is a lengthy and involved process that includes a lot of different stakeholders and phases. This schematic is a little overwhelming but I put it here to show you that regulations are not created by 1 or 2 people. They start with Congress authorizing a particular regulation, and sometimes requiring it. The Fair Housing Act is a great example of that—the Fair Housing Act is the congressional authorization, but then any federal agency that deals with housing has to write their own regulations to implement the Act.

From there, agencies have to get together internally and come to an agreement about what a regulation should say. We base that on available research and use stakeholder input, like listening sessions and other instances where we gather stakeholders' thoughts and concerns. In this case, for instance, we reviewed research and it all pointed to the discrimination against and prevalence of homelessness among transgender people. After the fact gathering, we figure out both what we think the regulation should say and specific questions we have for the public about it. Then OMB reviews it and sends it to all the other federal agencies, and they review it and comment, and we have to address all of those comments, and once we make it through that, Congress gets a chance to review. Once they're done and questions are resolved, we put it out as a proposed rule, and you all get a few months to comment on it.

We have to then take those comments and respond to them and make sure that the final language we create is responsive and takes all the different factors that stakeholders and practitioners point out to us. Once we're able to resolve all of that and come to agreement internally, we send it back to OMB, and out to the federal agencies, and do the whole comment period again, until all comments are resolved. At that point, after all of those factions and stakeholder groups have reviewed and had their say, only then does a regulation come out.

I tell you all this not only to answer the question of whether this will change in the near future, but also so that you understand a bit more about the rulemaking process. I never understood it until I was working for the federal government, and I find it instructive to know the steps and where you can input your perspective. So to answer the question succinctly, I think it's safe to say that you can expect to

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continue implementing these requirements into the future, knowing of course that HUD may make changes at some point through the rulemaking process, but this is never a quick process.

### Slide 15:

*Script from Abby Miller, SNAPS Specialist delivering webinar:*

This is the last thing I'll say before we go into our first scenario. If you are wondering whether the new rule applies to you, if you get funding from any of those sources, the answer is yes. It doesn't matter how much or how little. That includes temporary disaster shelters if you receive CDBG money. It has to be current funding, so maybe you used CDBG funds 20 years ago to fund some bricks and mortar. That doesn't necessarily qualify you, but if you receive any funds currently, even mid-grant cycle, you have to be compliant with the rule.

### Slide 16: Scenario #1 "Serving transgender clients"

*This is the first of three scenarios that you can use to engage staff and volunteers.*

If a male client at my men's shelter comes to a staff person and identifies as a transgender man, how can I allow the client to use the same bathroom and dormitory sleeping arrangements as the other clients?

*Talking points and responses:*

- Not only can you allow it, but are required to do so.
- Do not isolate clients based on their transgender status. Address the question of risk to clients—trans clients are much more likely to be victims of assault than the perpetrators. They're the ones most at risk.
- 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 that are eligible, in this case anyone identifying as male, with the same services, staff, questions, and setting that all other clients receive.
- Additional point re: bathrooms—you can create privacy through time or space. If someone requests additional privacy—whether they're transgender or not—projects can create privacy through use of shower schedules. Putting up curtains at a bare minimum across toilet stalls can also provide an additional layer of privacy.
- As part of the new requirements, projects have to take non-discriminatory steps to address clients' privacy concerns. The important thing to note here is that steps are taken when a client raises concerns, and not that a project treats transgender people differently as a policy. The easiest example of this is when a project has a policy of putting all transgender clients in a separate room from everyone else. That isolates and segregates people because of their transgender status. Instead, projects must provide equal access to all clients and only take measures to address privacy concerns when a client raises a concern. This is part of good person-centered care and low-barrier principals, and now it's also a requirement in the amended rule. Again, we encourage you to use the comprehensive TA materials to help you work through these policy and procedure decisions and implementation.

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## Slides 18-21:

*Some points to emphasize in presenting on language:*

Sexual orientation, gender identity and gender expression are three different concepts, though we often put them together or confuse one for the other.

Transgender individuals face a lot of choice when they are determining how to express their identity. Changes in expression can happen at an early age, or later in the life course. This change in gender expression may or may not include a change in name, change in preferred gender pronouns such as “him” or “her”, and hormones/surgery.

To create a more welcoming environment for the transgender population, avoid invasive and unnecessary questions that are not relevant to treatment. Also, if you don’t know, ask about preferred name, pronouns, and names for body parts.

Many people use one or more of the following pronouns:

- He/him/his are pronouns for male or masculine identities
- She/her/hers are pronouns for female or feminine identities
- They/them/their are inclusive pronouns associated with gender non-conforming, non-binary identities, and all other gender identities

\*\*Clients may choose to disclose their transgender status at some projects within a community while not disclosing at other projects. For instance, a client may want to disclose their transgender status at a health clinic to receive appropriate healthcare but not at a project where one’s sex assigned at birth is not relevant to the services provided.

*You may also consider reviewing and handing out this resource:*

[Understanding Transgender People- The Basics](#)

## Slide 22: Scenario #2 “Serving transgender clients separately and addressing safety”

*To best address the question, use the response points listed below:*

- Challenge the perception that the risk is to other women in the facility—trans clients are also highly vulnerable.
- We cannot control what triggers people. Operating a Federally funded project in a discriminatory way is not a sustainable model.
- Intimate partner and family violence projects already know that aggressors and victims can be of any age or gender. Perpetrators can be adult children being violent with parents, same-sex partners using violence, or any combination of the diversity in a community. Federally funded projects that are designed to serve women who are victims of domestic violence must serve all women.

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- If a project serves families that are victims of domestic violence, then they must serve all families. (*find more information on slide 41*).

### Slide 23:

LGBT protections are necessary...

### Slide 25:

The behaviors and reactions listed on the slide are common discriminatory responses to transgender persons who need a project's assistance. Use the experience poll on slide 26 to determine whether people in your community have seen these types of discriminatory behavior.

### Slide 27:

The behaviors listed on this slide are additional common discriminatory responses to lesbian, gay and bisexual clients, transgender clients, and families of particular compositions. The most frequently discriminated against families are those with male members who are separated from their family within a facility, or prohibited altogether from being served with their family.

*Citations: The Equal Access Rule clearly defines "family" at 24 CFR 5.403, and the CoC Program Interim Rule at 24 CFR 578.93(e) and the ESG Program Interim Rule at 24 CFR 576.102(b) prohibit involuntary family separation.*

### Slide 29: Scenario #3: "Serving clients with non-binary identities in sex-segregated facilities"

*To best address this question, use the response points on the slide, listed below, as well as the information on slide 42.*

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. In fact, the HMIS Data Element 3.6 (Gender) allows for multiple gender categories, including transgender and "doesn't identify as male, female, or transgender."
3. "Extra" space isn't necessary to serve transgender or non-binary clients seeking services. Serving these clients is part of what HUD funded services do as part of their usual work, not as an added bonus.

*You might also consider reviewing and handing out this resource:*

[Understanding Non-Binary People- How to be Respectful and Supportive](#)

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## Slides 31-34:

*As the trainer, you should pull liberally from the resources listed on these slides as you craft your training. You may want to move these slides to your appendix as you incorporate the resources in your community's or project's trainings.*

## Slide 35:

*In addition to providing the link on slide 35, encourage providers to print and hang this [Notice of Rights](#) in public spaces in your community's projects so that everyone knows their rights and how to report complaints.*

## Slides 36-42:

*Appendix A offers other slides you may want to use in your training, and the topic areas link to different staff training scenarios to maximize opportunity to connect with the topics that are most necessary in your community or project. A few have some additional points laid out below.*

## Slide 38:

*As a starting point, use these recommendations for creating a safe space:*

- Talk to all residents about what transgender means, what it feels like to be disrespected, drawing parallels to other peoples' experiences, and treating all residents with respect
- Train all staff and volunteers
- Model respectful behavior and appropriate language
- Post signage about non-discrimination policies
- Provide affirming resource pamphlets
- Create connections in the broader community: LGBT centers, supportive landlords, etc.

## Slide 40:

*To address how to handle conflict resolution, use the following do's and don'ts as a starting point:*

- DO: Regularly educate staff, volunteers and residents about respect and equal treatment of LGBT individuals
- DO: Take violence against LGBT residents seriously
- DO: Document the violation and respond immediately
- DO: Enforce non-discrimination rules consistently to establish safe space for LGBT residents
- DO: Immediately investigate allegations of violence or harassment of LGBT individuals in the shelter, identify the perpetrator(s) and enforce the shelter's non-discrimination rules
  
- DON'T: Ignore bullying (including verbal bullying) against LGBT clients or sweep these incidents under the rug, even if you think the bullying is harmless. Consistent enforcement of non-discrimination rules is important for purposes of compliance and education.
- DON'T: Force transgender residents to appear as their sex assigned at birth, or suggest that they should do so to "fit in" or "for their safety"
- DON'T: Victim-blame, punish, exclude or banish the person being abused or bullied

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- DON'T: Assume LGBT individuals are already educated about LGBT non-discrimination
- DON'T: Assume LGBT individuals are comfortable with all other LGBT individuals

### Slide 42:

*Direct quote from Gender Identity Rule preamble:*

In circumstances where an individual does not identify as male or female and such information is relevant to placement and accommodation, the individual should be asked the gender with which the individual most closely identifies. In these circumstances, the individual is in the best position to specify the more appropriate gender-based placement as well as the placement that is most likely to be the safest for the individual—either placement with males or placement with females.

### Slides 44-48:

*These slides offer concrete requirements from applicable regulations.*