Fair Housing: Familial Status, Equal Access and Gender Identity

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Carolyn Steinhofer
Intake, Enforcement and Compliance Manager
267.419.8918 x2
Steinhofer@equalhousing.org
Agenda

• Fair Housing Act
• Executive Order 13988
• HUD’s Equal Access Rule
• HUD’s Gender Identity Rule
• Executive Order 13988
• Federal, state, and local fair housing protections for sexual orientation and gender identity
• Fair Housing rights of families with children under the age of 18
In February 2012 HUD published a final rule entitled *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity*. This rule prohibits discrimination on the basis of sexual orientation, gender identity, or marital status in all HUD programs. Housing providers that receive HUD funding and/or have loans insured by the Federal Housing Administration (FHA), must comply with this rule.
Equal Access

Applies to all HUD-funded programs:
• Housing Choice Voucher Program (Section 8)
• Public Housing
• Community Development Block Grants and subrecipients
• Housing Opportunities for Persons with AIDS (HOPWA)
• Supportive Housing for the Elderly and Persons with a Disability
• Federal Housing Administration (FHA) insured loans
• Does not apply to private housing providers who do not receive HUD funding
In 2016, HUD published a rule entitled *Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs*
Equal access is to be provided in all HUD assisted programs.

Individuals are to be placed in accordance with gender identity.

No requirement for individuals to “prove” gender identity (no invasive questions or medical verification).

Providers must update policies and procedures to reflect requirements.

Non-discriminatory steps must be taken to address safety/privacy concerns of transgender participants, however participants must not be required to accept accommodations.
Examples of Discrimination

- A shelter employee hanging up immediately after caller reveals she is transgender

- A shelter employee making references to genitalia or surgery as requirements for appropriate housing.

- A shelter employee refusing to enroll a participant “because they would make other participants feel uncomfortable or unsafe.”
Examples of Discrimination

• Management of housing projects of facilities failing to address complaints from LGBT individuals regarding harassment by other residents

• Project staff revealing an individual's status as transgender or requiring special procedures for households with a transgender person.

• Project staff excluding individuals based on family composition.
Equal Access Rule
Best Practices

• Does your agency have an anti-discrimination policy?

• Does it include gender identity, gender expression, and sexual orientation in the list of protected attributes?

• Is it posted publicly?

• Are your staff, volunteers, and contractors trained on this policy?
Title VIII of the Civil Rights Act of 1968, as amended in 1988, known as the Fair Housing Act (FHA), makes it unlawful to discriminate against individuals in housing transactions based on:

- Race
- Color
- Religion
- National Origin
- Sex
- Disability
- Familial Status*

*Familial status means the presence of children under 18 in a household, pregnant women or anyone adopting or securing legal custody of a child.
Executive Order 13988

An Executive Order 13988 issued on January 20, 2021 states: “Every person should be treated with respect and dignity and should be able to live without fear, no matter who they are or whom they love…All persons should receive equal treatment under the law, no matter their gender identity or sexual orientation.”

Executive Order 13988 directed the heads of all federal agencies to develop agency actions to fully implement existing statutes that prohibit sex discrimination. HUD’s Office of Fair Housing and Equal Opportunity responded by stating on February 11, 2021 that will begin enforcing the Fair Housing Act to prohibit housing discrimination based on sex to include

Sexual Orientation and Gender Identity
• 2021 – HUD Memo on Preventing and Combating Discrimination on the Basis of Gender Identity and Sexual Orientation
## Federal Fair Housing Act

### Covered Transactions:
- Rental
- Sales
- Lending
- Homeowners insurance
- Appraisals
- Zoning and land use
- Housing programs offering rental assistance, housing counseling, etc.

### Covered Properties:
- Apartments and condos
- Public housing
- Private housing
- Dormitories
- Nursing homes
- Homeless shelters
- Transitional housing
- Group homes
- Addiction recovery homes
Sex Discrimination

- Discrimination based on sex is prohibited by the Fair Housing Act.

- Sexual Orientation and Gender Identity are covered under Sex

- Providers and housing programs may not segregate residents by gender, with the exception of housing which contains shared sleeping areas, bathing areas, and/or bathrooms.

- Rules that prohibit boys and girls from sharing a sleeping area are not permissible

- Sexual harassment in housing is recognized as discrimination under the Fair Housing Act.
Illegal discrimination against families with children includes:

- Denying housing to families with children—only senior housing (under HOPA) can restrict families with children
- Segregating housing so the families with children are only permitted in certain buildings or on certain floors
- Restricting children because of “unsafe conditions”
- Rules that prohibit parents and children or boys and girls from sharing a bedroom
Illegal discrimination against families with children includes:

• Charging a higher rent or security deposit to families with children

• Rules and regulations that treat children under 18 differently from adults in the use of housing facilities

• Per capita charges (per person fees) and occupancy restrictions can have a disparate impact on families with children
Best Practices

Review Policies, Procedures, and Training

• Review all rules, policies, procedures, and eligibility standards to ensure that they are not intentionally discriminatory and do not have a discriminatory effect on members of protected classes. Implement a nondiscrimination policy if one does not exist.

• Make sure all staff receive regular fair housing compliance training.

• Contact HECP for technical assistance as fair housing issues and questions arrive.
Nondiscriminatory Community and Program Rules

• Community rules should be standardized, written, and communicated to all residents.

• Rules should not single out or target protected class (for example, quiet times or curfews should apply to everyone, not just children).

• Rules should be enforced consistently. Avoid the appearance of discrimination by not showing favoritism among participants.

• Reasonable accommodation requests involving exceptions to rules and policies should be documented.
Founded in 1956, before state or federal fair housing legislation, the Housing Equality Center of Pennsylvania is America’s oldest fair housing council.

The Housing Equality Center serves the Pennsylvania counties of Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton and Philadelphia.
The Housing Equality Center provides:

- Counseling, testing investigations, and enforcement services to assist victims of housing discrimination.
- Education, training programs, and technical assistance for housing professionals, nonprofits, housing authorities and others to promote compliance with fair housing laws and to prevent discrimination.
- Publications, fact sheets and resources to educate the public and housing professionals about fair housing.
Consumers, providers, and advocates should contact the Housing Equality Center of Pennsylvania to report discrimination. The Housing Equality Center accepts and investigates complaints from anonymous sources.

Fair housing complaints can be filed with HUD for up to one year from the incident, or with the Pennsylvania Human Relations Commission for up to 180 days from the incident. A lawsuit may be filed in Federal Court up to two years from the incident.
✓ Sign up for fair housing news
✓ Register for an upcoming fair housing event or meeting
✓ Learn about fair housing laws
✓ Download guides, resources, fact sheets and fair housing guidance
✓ Request fair housing training or publications for your clients, colleagues or offices
✓ Report discrimination online
Learn about fair housing laws
Learn about the rights of renters in PA
Download sample letters to landlord
Request assistance with requesting a reasonable accommodation or modification
Report discrimination online
KNOW YOUR RESPONSIBILITIES as a Landlord or Property Manager in Pennsylvania

Fair Housing... It's Your Responsibility!
Fair Housing Questions?  
Technical Assistance?

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Transgender
Appropriate and Respectful Interaction

Janis Stacy
About the Presenter: Janis Stacy

- Planning for QueerMarch NYC 2021, 2022
- Planning Philadelphia Trans March
- Board of Indigenous People’s Day Philadelphia
- Philadelphia Trans Health Conference
  - Co-Chair 2014 through 2018
  - Lead for Spirituality and Native American
  - Planning committee 2007 through 2018
- TransFaith - Board Member
- Co-Founder of a Two Spirit Society
- Leadership member on a Multi-Faith LGBTQ2SIA organization
- Worked on transgender insurance coverage, workplace inclusion, local legislation, federal legislation, racial and gender equality
- Worked with homeless shelters for Trans people
- Have been an Out and Equal registered trainer
- Co-Founder of National Center for Transgender Equality
- Engineer and Project Management
• 23% of Trans People experienced some form of housing discrimination in the past year, such as being evicted from their home or denied a home or apartment because of being transgender.

• 30% of Trans people have experienced homelessness at some point in their lives.

• 12% Trans People experienced homelessness because of being transgender.

• 26+% of homeless Trans avoided staying in a shelter because they feared being mistreated as a transgender person. Those who did stay in a shelter reported high levels of mistreatment:

• 70% respondents who stayed in a shelter in the past year reported some form of mistreatment, including being harassed, sexually or physically assaulted, or kicked out because of being transgender.
• Estimated **0.6% of adults in US identify as Trans** (1.4 Million).
  Philadelphia could be between 0.6% to 2.5%. (Williams Institute)

• Trans people are **2 times more likely to be living in poverty**.
  29% for Trans people vs 14% for the general population. (NCTE 2015 survey)

• **Trans children are about 1%** of the people to come to shelters. (Williams Institute)

• **20 to 40% of homeless children are LGBT** (2.5 to 5 times the rate of non-LGBT people) (Williams Institute)

• 1 in 3 homeless children are in prostitution within 48 hours of becoming homeless. (National Runaway Switchboard)

• In Short – You could see between **1 to 15 people per hundred** in the Philadelphia area.
Terminology / Language

• Transgender – Trans* - Trans – T :
  A term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth. Transgender is a broad term and is good for non-transgender people to use.

• Transgender Man – FTM :
  A term for a transgender individual who currently identifies as a man.

• Transgender Woman – MTF :
  A term for a transgender individual who currently identifies as a woman.

• Gender Non-Conforming – GNC :
  A term for individuals whose gender expression is different from societal expectations related to gender.
Terminology / Language

- **Transsexual:**
  An older term for people whose gender identity is different from their assigned sex at birth who seeks to transition from male to female or female to male. Many do not prefer this term because it is thought to sound overly clinical.

- **Cross-dresser:**
  A term for people who dress in clothing traditionally or stereotypically worn by the other sex, but who generally have no intent to live full-time as the other gender. The older term “transvestite” is considered derogatory by many in the United States.

- **Bi-gendered:**
  One who has a significant gender identity that encompasses both genders, male and female. Some may feel that one side or the other is stronger, but both sides are there.

- **Genderqueer:**
  A term used by some individuals who identify as neither entirely male nor entirely female.
Terminology / Language

Two-Spirit:
A contemporary term that refers to the historical and current First Nations people whose individuals spirits were a blend of male and female spirits. This term is used by some in Native Americans in order to reclaim their heritage.

Transition:
The time when a person begins to living as the gender with which they identify rather than the gender they were assigned at birth, which often includes changing one’s first name and dressing and grooming differently. Transitioning may or may not also include medical and legal aspects, including taking hormones, having surgery, or changing identity documents (e.g. driver’s license, Social Security record) to reflect one’s gender identity. Medical and legal steps are often difficult for people to afford.

NOTE: The previous definitions are generally from the NCTE website:
http://www.transequality.org/issues/resources/transgender-terminology
Terminology / Language

• Gender Identity:
  An individual’s internal sense of being male, female, or something else. Since gender identity is internal, one’s gender identity is not necessarily visible to others.

• Gender Expression:
  How a person represents or expresses one’s gender identity to others, often through behavior, clothing, hairstyles, voice or body characteristics.

• Birth Gender:
  The gender assigned to someone at birth. Typically the gender on birth certificates.
DO NOT ASK ABOUT THIS!!

• **Pre-Transition**
  • This is before a person does anything around modifying their physical and or presentation of gender from their birth gender.

• **Early-Transition**
  • A person in the early stages of modifying their physical and or presentation of gender from their birth gender.

• **Mid-Transition**
  • A person has worked on modifying their physical and or presentation of gender from their birth gender and modifies their official documentation gender.

• **Late-Transition**
  • Changes are pretty much done and a lot, if not all documentation matches their target gender.
Respectful / Appropriate Interaction

- **Preferred Name:** Ask the person the name they want use for them.
- **Legal Name:** Ask the person their legal name if it’s needed.
- **Use their preferred name regardless!**
- **Use the preferred gender** - If documentation gender doesn’t match the gender they told you, use the gender they told you for interactions with them.
- **Use the preferred pronouns** – He, She, They, Them are most common.
- **Avoid using gender on forms given to clients.**
- **Ask if they need any special accommodations.**
- **If someone reveals they are Trans.** Know this is huge! They are trusting you. **Acknowledge the disclosure and assure them** being Trans will not negatively impact the help you provide them.
- **If documentation shows a gender mismatch, ask** what gender the person wants you to use. I.E. – If needed, ask preferred gender or pronouns to use.
Respectful / Appropriate Interaction

DO NOT DO THIS!

- Do not ask about genitalia
- Do not ask about surgical status.
- Do not use Sir, Ma’am, Mr or Ms or Mrs. Unless you know for certain!
- You will make mistakes. Learn from them.
- You may encounter someone who you may think over reacts. Learn what you did wrong. Understand that they may have had any number of negative experiences before this one.
Respectful / Appropriate Interaction

• Have information readily available that lists information for Trans people.
  • Support services (Medical, Psychological, Community, Clothing, Spiritual).
  • Published - How to complain and what will be done with the complaints.
  • Printed material explaining how Trans people access services.
  • Hats…
  • Razors for women, sanitary napkins for men.
  • Appropriate grooming products for TPOC.
  • Other orgs are providing some trans needs (binders, clothing…).

• Treat Trans people with respect. As you would anyone else.
Conflict Resolution

- Have written policies stating non-discrimination including Gender Identity and Expression.
- Have a complaint procedure posted.
- Have a written complaint procedure.
- Have a written conflict resolution procedure.
- Complaints and or conflicts should be swiftly addressed.
- The person(s) responsible for resolving complaints and or conflict should be trained in how to resolve complaints and conflicts.
Resources

- Mazzoni - https://www.mazzonicenter.org/


