



Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Funded Programs CoC Training

The Riverside County Continuum of Care non-discriminatory policy, regarding the U.S. Department of Housing and Urban Development (HUD) final rule regarding equal access to Community Planning and Development (CPD) funded programs regardless of sexual orientation, gender identity, and marital status, will ensure that individuals are aware of their rights to equal access to CPD funded programs.

Thus, all CPD funded programs, including Continuum of Care and Emergency Solutions Grant funded programs, must comply with the requirements that are outlined in this training.

The following slides in this training presentation were taken directly from a webinar that HUD provided in October 2016 ([Click here for the full presentation](#)).



Implementing HUD's Equal Access and Gender Identity Rules

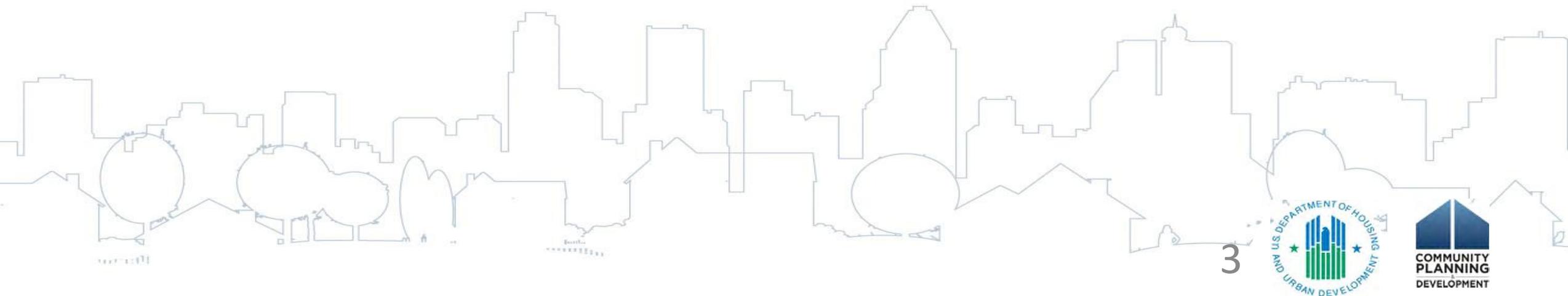
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Agenda

1. Discuss Equal Access Rule
2. Review Gender Identity, Gender Expression, Sexual Orientation
3. Discuss Specific Scenarios at Projects
4. Review Resources to Help Going Forward



HUD's Equal Access and Gender Identity Rules

- In effect October 21, 2016
- Equal access is provided in all HUD assisted programs
- Individuals are placed in accordance with gender identity
- No requirements for individuals to “prove” gender identity
- Providers must update policies and procedures to reflect requirements

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
- HOME
- CoC
- ESG
- HOPWA
- Housing Trust Fund
- Rural Housing

Scenario #1: Sleeping Arrangements

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

1. Not only can you allow it, but are required to do so.
2. Do not isolate clients based on their transgender status.
3. 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.
4. 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.

Language: Using Appropriate Terms

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.

Language: Using Appropriate Terms

Gender Identity:

- Internal or innate sense of being male, female, or another gender
- May or may not match their assigned sex at birth

Gender Expression:

- External expression of gender identity (note that many times people do not feel they can safely express their gender identity)
- Exhibited through: behavior, clothing, hairstyle, body language, and voice

Sexual Orientation:

- Physical or emotional attraction to the same and/or opposite sex
- Distinct from one's gender expression or identity

Scenario #2: Domestic Violence Shelter

I run a domestic violence project that serves women. We house residents in two separate buildings on the same property. All residents have access to the same services but I've decided to house transwomen in one building and women in the other. I did this because I'm worried about triggering traumatic experiences for residents of the project as they begin to rebuild their lives.

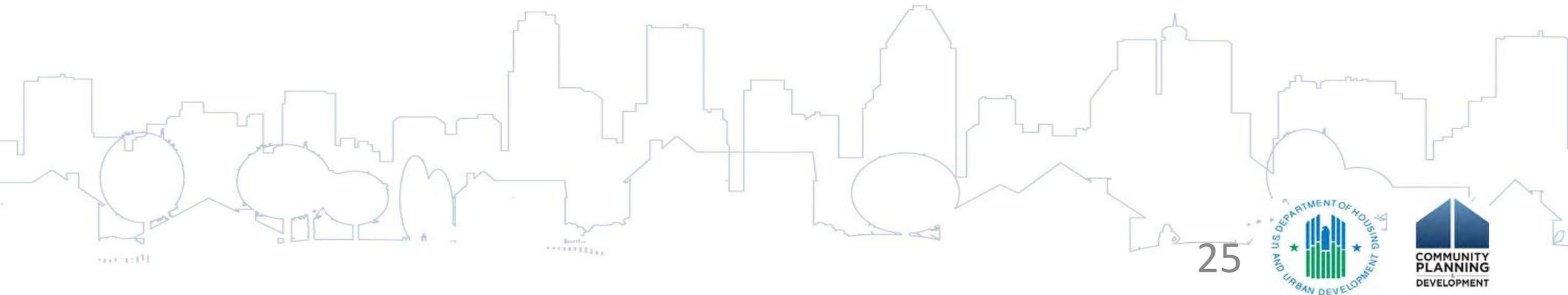
Can I require all transwomen be served in a different building or project?

Why are LGBT Protections Necessary?

- Among homeless LGBT youth (up to age 24), the average age of being homeless the first time is 15 years old.
- Nearly two thirds of homeless shelters in a recent study failed to enroll a person properly once they identified as transgender.
- Nearly a quarter of homeless transgender residents report being assaulted by other residents or staff at homeless shelters.

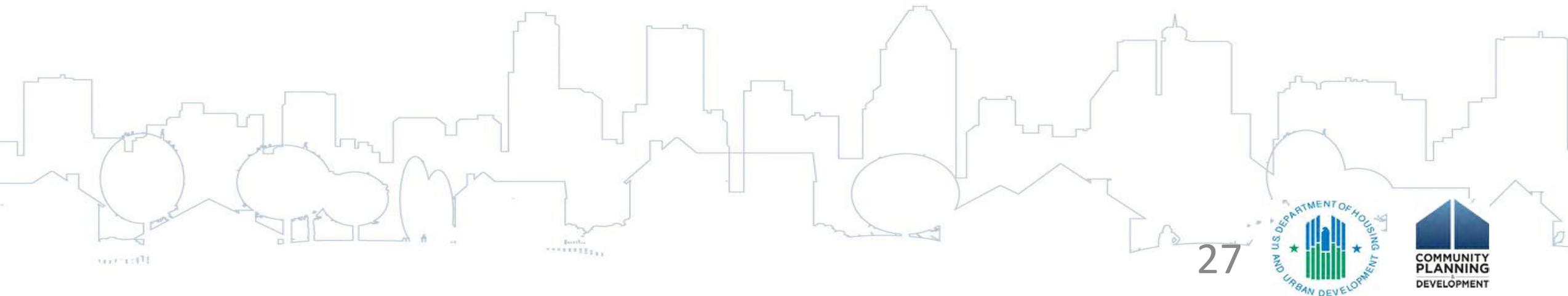
What Discrimination Looks Like: Emergency Shelters

- A shelter employee hanging up immediately after caller reveals she is transgender.
- A shelter employee making references to genitalia or to surgery as requirements for appropriate housing.
- A shelter employee refusing to enroll a participant “because they would make other participants uncomfortable or feel unsafe.”



What Discrimination Looks Like: TH, PSH, Other Housing

- Management of housing projects or facilities failing to address complaints from LGBT individuals regarding harassment by other residents.
- Project staff revealing an individual's status as transgender and requiring special procedures for households with a transgender person.
- Project staff excluding individuals based on family composition.



Scenario #3: Non Binary Identity

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 trans clients. When they arrive, the individual refuses to pick male or female and says they don't identify with either. What should I do?

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.

Next Steps

Frontline staff:

- Do we have an anti-discrimination policy?
- Is it posted publicly? No? Get a notice of rights at:
<https://www.hudexchange.info/resources/documents/Notice-on-Equal-Access-Rights.pdf>

Managers and Directors:

- Do we have an anti-discrimination policy?
- Do we regularly train staff and volunteers on the policy and how to implement? (Hint: use the [staff training scenarios](#) to get started!)

CoC Boards and other planning bodies:

- Do our projects have anti-discrimination policies?
- Do we support projects to train staff on the policy and how to implement?
- Have we been clear that projects must comply with these requirements?

Where to Begin?

- Does your agency have an anti-discrimination policy?
- Does it include gender identity, gender expression, and sexual orientation in the list of protected attributes?
- Are your staff, volunteers, and contractors trained on this policy?

Next Steps: Where Can I File a Complaint?

The Fair Housing Act also prohibits discrimination based on gender identity, and on sexual orientation where the evidence establishes discrimination is based on sex stereotyping.

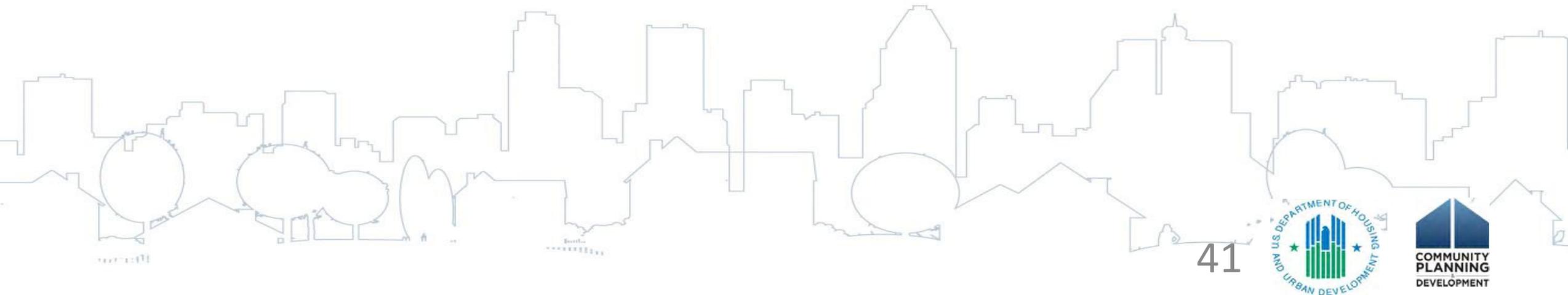
File complaints at:

http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination

Or call (800) 669-9777

Making Room for All Families

- When projects serve ANY families with children, they must serve ALL families with children.
- That includes families of any composition type: single dad, single mom, same-sex couples, opposite-sex couples, multi-generational, and non-romantic groups who present for services as a family...
- For more information, visit <https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family-that-was-included/>



Equal Access Rule (published in 2012)

- Ensures that lesbian, gay, bisexual, and transgender people are guaranteed equal access to HUD's housing and shelters.
- Clarifies the term "family" and "family unit", as used in the HUD programs (see <https://www.hudexchange.info/faqs/1529/how-is-the-definition-of-family-that-was-included/>)

Requirements of Gender Identity Rule

- Published on September 21, 2016. Effective on October 21, 2016
- Requires that policies and procedures to protect privacy, health, safety, and security, shall be established or amended, as necessary, and administered in a nondiscriminatory manner to ensure that:
 - Equal access to all CPD programs is provided in accordance with gender identity;
 - In single-sex facilities, individuals are placed, served and accommodated in accordance with one's gender identity; and
 - Individuals are not subjected to intrusive questioning or asked to provide anatomical information or documentary, physical, or medical evidence of the individual's gender identity.
- Plus non-discriminatory steps must be taken to address privacy concerns, including updating operating policies and procedures.

United States Equal Employment Opportunity Commission (EEOC)

EEOC established the following employer liability for harassment:

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that:

- 1) it reasonably tried to prevent and promptly correct the harassing behavior;
- 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g. independent contractors or customers on the premises), if it knew or should have known about the harassment and failed to take prompt and appropriate corrective action.

United States Equal Employment Opportunity Commission (EEOC)

EEOC harassment standards:

The United States Equal Employment Opportunity Commission (EEOC) has established guidelines for employers regarding behaviors that create a hostile work environment and require correction. It is important to remember that homeless projects are also workplaces. As defined by the EEOC, harassment can include:

- Offensive jokes, slurs, or epithets or name-calling
- Physical assaults or threats
- Intimidation, ridicule, or mockery, insults or put-downs
- Offensive objects or pictures
- Interference with work performance