

This fact sheet outlines the housing rights of transgender people or due to gender identity. The National Gay and Lesbian Task Force defines *transgender* as “an umbrella term for people whose gender identity, expression or behavior is different from those typically associated with their assigned sex at birth, including but not limited to transsexuals, crossdressers, androgynous people, genderqueers, and gender non-conforming people.”

What do fair housing laws protect?

The federal Fair Housing Act prohibits discrimination based on gender (sex) in the sale, rental or financing of housing and in other housing related services. Although gender identity is not specifically referenced under the FHA, courts have increasingly held in recent years that discrimination because a person is transgender, or because he or she fails to conform to gender stereotypes, is gender/sex discrimination. The U.S. Department of Housing and Urban Development (HUD) has issued new guidance stating that it will investigate complaints of housing discrimination against transgender people or due to gender identity as a form of gender discrimination. The new federal rule notes:¹

- It prohibits lenders from using gender identity as a basis to determine a borrower’s eligibility for FHA insured mortgages.
- It clarifies that “families” that are otherwise eligible for HUD programs can’t be excluded because one or more members of the family is LGBT, in a same-sex relationship, or perceived to be an individual in such a relationship.
- It prohibits owners and operators of HUD assisted housing or housing whose financing is insured by HUD from inquiring about the gender identity of an applicant or occupant of a dwelling.

Please note that a Marion County, Indiana human rights ordinance provides specific protection for gender identity - although remedies may not be equal to the federal level.

Can a housing provider ask if I am transgender?

Asking whether you are transgender may be an indication of discrimination if you are subsequently denied housing,

provided substandard housing or provided different terms and conditions within your housing. If a housing provider receives federal funding, the HUD guidance specifically forbids asking about gender identity.

Can I be turned away from gender-specific housing or forced into housing with the wrong gender?

The National Center for Transgender Equality² notes that refusing to provide housing consistent with a person’s gender identity because they are transgender constitutes discrimination based on gender and/or gender identity. In the case of a homeless shelter that houses men and women separately, facility staff may ask whether you are male or female if they are unsure in order to provide adequate housing. If asked, you can tell the gender you identify as. Demands for medical or legal evidence concerning your gender, because you are transgender or are perceived as not conforming to gender stereotypes, may be evidence of discrimination.

According to the report *Transitioning Our Shelters*³, shelter residents often have preconceived concerns and fears when it relates to members of the transgender community including an unwillingness to live with them. However, since a shelter is supposed to be a reflection of the community where everyone is welcomed, no matter their race, gender, religion, disability, sexual orientation, etc.; shelters must find ways to cope with the needs of all its residents. Unfounded fears may include concerns about assault by those who are transgender. However, according to long operating integrated shelters, those who are transgender are no more dangerous than others. Reports by women shelters have shown that assaults by those who are transgender women (MTF or male to female transgender) are not unlike those committed by other women. In addition, according to the report, there has been no statistical evidence showing that men will put on women’s clothing in order to gain access to a women’s shelter.

The report also suggests ways in which shelter staff can create a welcoming environment for those who are transgender such as through confidentiality, triage intake, signs noting that transgender are welcome, name and pronoun usage, information on availability of private showers & rest-

rooms, sleeping arrangements and discussion of any safety concerns the transgender person may have. The report suggests shelters implement training that focuses on at least these points:

- What transgender and other basic terms mean
- What it is like to be transgender
- What it feels like to be disrespected - drawing parallels to the residents' experiences
- How to treat transgender people with respect

The report goes on to note that by using the four focus points as guidelines, shelters can open the door to dispel most preconceived fears of fellow residents; and present a more welcoming atmosphere to transgender residents.

How to help stop discrimination

*Action Steps For Being a Trans Ally*⁴ notes that in addition to those who identify as transgender, many people who may not identify as "transgender" still face discrimination based on their gender expression and for not conforming to traditional gender presentations. What you can do to fight stereotypes and discrimination:

- *Don't make assumptions about a trans person's sexual orientation.* Gender identity is different than sexual orientation. Being gay doesn't mean you're trans and being trans doesn't mean you're gay. Sexual orientation is about who we're attracted to. Gender identity is about how we see ourselves. Trans people can identify as gay, straight, bisexual, pansexual or asexual.
- *If you don't know what pronouns to use, ask. Politely and respectfully.* Then use that pronoun and encourage others to do so also.
- *Confidentiality, Disclosure and "Outing."* Some trans people "pass" and some do not. Knowing a trans person's status is personal information and up to them to share with others. Gwen Araujo and Brandon Teena were both murdered when others revealed their trans status. Others routinely lose housing, jobs and friends.

Do not casually share this information, or "gossip" about a person you know or think is trans.

- *Don't assume what path a trans person is on regarding surgery or hormones.* Affirm the many ways all of us can and do transcend gender boundaries, including the choices some of us make to use medical technology to change our bodies. Some trans people wish to be recognized as their gender of choice without surgery or hormones while some need support and advocacy to get respectful medical care, hormones and/or surgery.
- *Don't police public restrooms.* Recognize that gender variant people may not match the little signs on the restroom door-or your expectations! Encourage businesses and agencies to have unisex bathrooms, and offer to accompany a trans person to the bathroom so they are less vulnerable.
- *Don't just add the "T" without doing work.* "GLBT" is now commonplace to show support for queerness. To be an ally for trans people, people need to examine their own gender stereotypes and transphobia and be willing to defend trans people and celebrate their lives.
- *Listen to trans voices.* The best way to be an ally is to listen to trans people themselves. Talk to trans folks in your community. They are the experts!

References & Resources

¹*Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule*, U.S. Department of Housing & Urban Development, (FR Doc. 2012-2343), February 2, 2012.

²*Know Your Rights: Fair Housing and Transgender People*. National Center for Transgender Equality, March 2012.

³*Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*, published by the National Gay and Lesbian Task Force Policy Institute, National Coalition for Homeless, 2003.

⁴*Action Steps for Being a Trans Ally*, by Samuel Lurie, Transgender Training and Advocacy, <http://www.tgtrain.org/>

The mission of the Fair Housing Center of Central Indiana (FHCCI) is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. The FHCCI is located at 615 N. Alabama St., Suite 426, Indianapolis, IN 46204. Phone: 317-644-0673 or 855-270-7280. Relay: 711. Email: info@fhcci.org Web: www.fhcci.org

The work that provided the basis for this publication was supported by funding under a grant/cooperative agreement with the U.S. Department of Housing & Urban Development. The substance and findings of this work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in the publication. This information is not itself legal advice; for legal advice about a particular situation, contact an attorney. Alternative formats for those with disabilities available upon request. © Fair Housing Center of Central Indiana 2012. Do not use without the express permission of FHCCI. Version 12/12. P020.

