

Serving Transgender, Transsexual and Gender Nonconforming Individuals

TO: All Staff

FROM: Jane Corbett 
Executive Deputy Commissioner
Office of Constituent Services and Policy Improvement

I. INTRODUCTION

Understanding NYC Human Rights Law

The New York City Human Rights Law is one of the most comprehensive civil rights laws in the nation. The Law prohibits discrimination in employment, housing and public accommodations based on race, color, creed, age, national origin, alienage or citizenship status, gender (including gender identity),¹ sexual orientation, disability, marital status, and partnership status. The City Human Rights Law also prohibits retaliation and bias-related harassment.

Gender and Gender Identity

It is a violation of the New York City Human Rights Law to discriminate based upon an individual's actual or perceived sex, including gender identity or expression, when offering services. More specifically, it is illegal to discriminate because of "gender identity, self-image, appearance, behavior or gender expression," even if a person's gender identity or gender expression is different from that traditionally associated with the legal sex at birth.

It is important to note that a person's gender identity may differ from the person's gender expression at various times, and one's own gender identity determines how one should be regarded by the City.

The definition of gender in the New York City Human Rights Law was amended by Local Law 3 (2002) to ensure that transgender, transsexual and gender nonconforming individuals are protected against bias and discrimination in areas such as public accommodations and services, employment and housing, as well as bias-related harassment, in New York City. Discomfort felt by HRA staff and/or other clients cannot affect the respectful offering and provision of appropriate services.

II. PROCEDURE

In order to ensure that all New Yorkers in need have equal access to HRA's vital services, there are a few key areas where employees should pay special attention to prevent creating a discriminatory or unwelcoming environment for transgender clients.

A. Titles, Names and Pronouns

One source of confusion about and discrimination towards transgender individuals concerns the use of the appropriate titles, names and pronouns when referring to a transgender person.

1. Transgender individuals should always be referred to by their preferred title (Ms./Miss/Mrs./Mr.), name and pronoun (he/she, him/her, his/her, they), regardless of whether the client has undergone a legal name change, or what their gender expression is at the time, or what gender they were identified with at birth. If you are not sure what title and name a person wishes or what pronoun they prefer, ask, "What are your preferred title, name and pronoun?"
2. Having learned the title, name and pronoun preferred by the client, repeatedly failing to refer to that person with the correct title, name and pronoun is a form of harassment and will not be tolerated.
3. It is recommended that you enter a note in the file to serve as a reminder to anyone working with the client in the future to use the preferred title, name and pronoun, even though a different name might still come up on various matches.

B. No Proof of Transgender Status Is Required for Access to Appropriate Services Other Than What is Mandated by Federal, State and Local Laws or Regulations.

Transgender HRA clients are not required to provide any supporting documentation from psychologists, medical doctors, or any other expert before being provided with services appropriate to their gender identity. For food stamps and cash assistance, a doctor's letter, for example, is sufficient to establish the preferred name and gender. This letter does not need to be in reference to any surgical or medical treatment. However, as for all those seeking services from HRA, identity and gender-related documentation may be required by federal, State, and/or local laws or regulations.

C. Access to Restrooms and Other Gender-Segregated Facilities

Restrooms, locker rooms, and other essential services are often segregated by sex. In New York City, it is unlawful discrimination to make an individual use a restroom or other sex-segregated facility that does not match that person's gender identity or expression. As such, transgender clients must be able to access facilities corresponding to their self-identified gender presentation.

D. Dress Code

Transgender clients should never be required to wear clothing that is inconsistent with their gender identity or expression, or forbidden from wearing clothing consistent with their gender identity or expression. Unless there are specific dress requirements for all participants of any gender or all those of the gender with which the client identifies, clients never should be asked to change their clothing or remove makeup in order to participate in a program.

E. Harassment

Name-calling, insults, asking highly personal and inappropriate questions, sexual harassment, refusal to use chosen titles, names and pronouns, unnecessarily revealing personal information to others, and gossiping or joking with others about a client are common forms of harassment faced by transgender people. It is never appropriate to ask any client questions about his/her anatomy, sexual practices or orientation. No sexually provocative or trans/homophobic materials should be displayed at any HRA location. HRA aims to create an environment free from harassment of any kind. Workers and supervisors must not tolerate any type of harassment.

F. Confidentiality and Privacy

Federal law requires service providers to keep confidential the medical information disclosed by clients. Care should be taken not to be overheard by others when discussing a client's gender identity. It is never appropriate to reveal any client's personal information to others, including the fact that the individual is transgender, any other names on record (besides the one(s) the person provides), or any information about the person's anatomy or medical history, except as required by law.

G. Domestic Violence Services

As in all other gender-segregated facilities, transgender clients should be placed according to their gender identity rather than sex designation at birth. Every effort should be made to place transgender individuals where they feel safest and where the service provider can ensure appropriate delivery of services.

H. Benefit Cards

All clients who require a photo identification card should have a benefit card with a photo that resembles them currently, along with their legal name. Accurate, current photographs allow transgender clients to validate their identity and reduce discrimination. The documentation required for establishing the client's legal name and gender should be consistent with federal, state and local law and regulations.

III. CONSEQUENCES

Any employee or contracted vendor discriminating against, harassing, or violating the rights of transgender individuals, or taking retaliatory action against any individual who opposes such action, is subject to disciplinary action by HRA as well as sanctions and penalties imposed by the courts and regulatory agencies, such as the New York City Commission on Human Rights and the New York State Division of Human Rights.

IV. REPORTING OF COMPLAINTS

Complaints of harassment, discrimination, retaliation or the creation of a hostile work environment may be reported to any of the following:

- NYC 311
- HRA website on www.nyc.gov/hra
- By letter to the Commissioner, NYC Human Resources Administration, 180 Water Street, New York, NY 10038
- By calling the New York City Commission on Human Rights at 311 or 212-306-7450
- By calling the New York State Division of Human Rights at 1-888-392-3644

ⁱ Section 8-102(23) of chapter one of title eight of the Administrative Code of the City of New York states: "The term 'gender' shall include actual or perceived sex and shall also include a person's gender identity, self-image, appearance, behavior or expression, whether or not that gender identity, self-image, appearance, behavior or expression is different from that traditionally associated with the legal sex assigned to that person at birth."