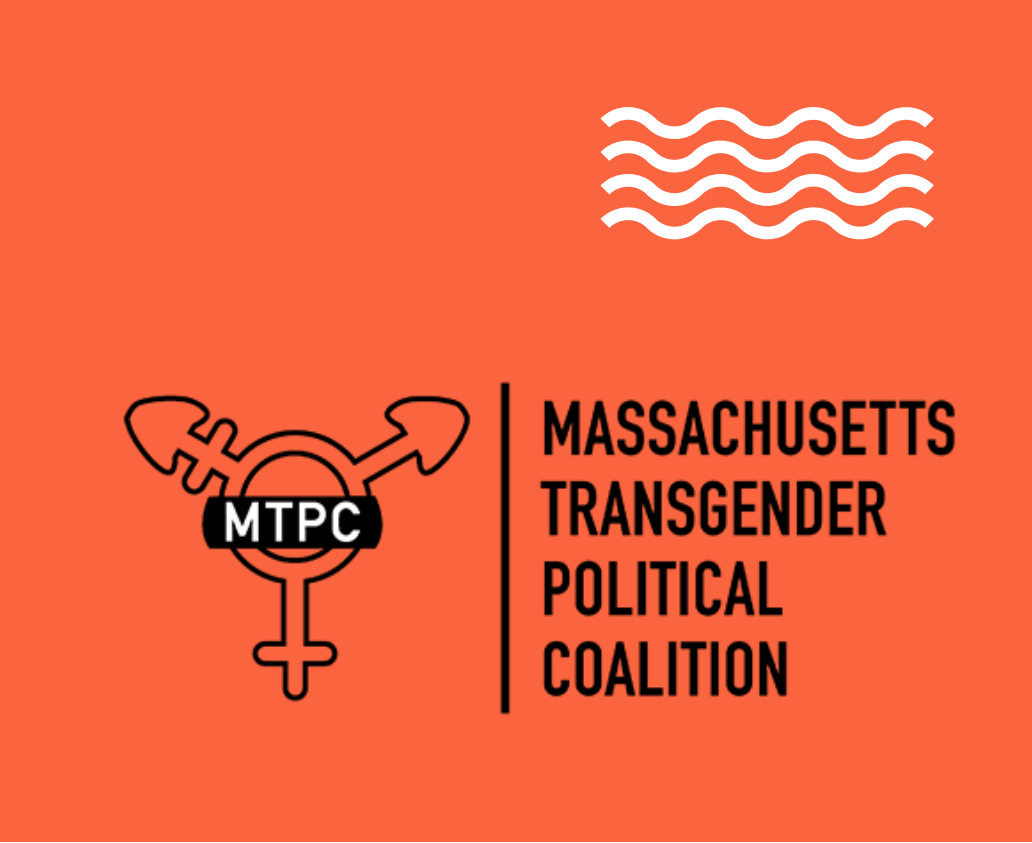
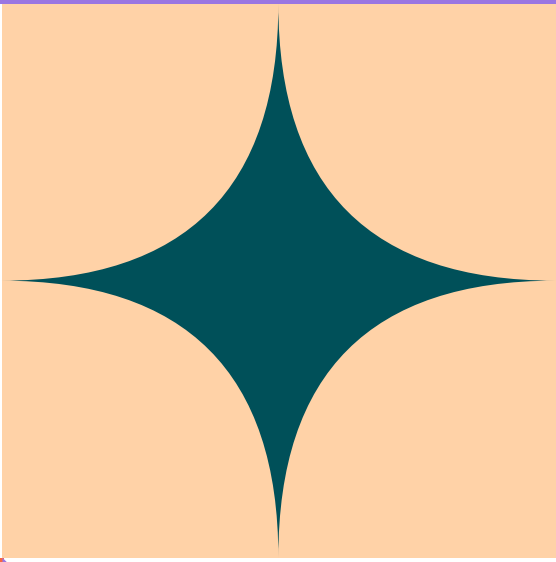


Shelter for All Genders

**Best Practices for Homeless Shelters,
Services, and Programs in Massachusetts
in Serving Transgender, Nonbinary, and
Gender Non-Conforming Guests**



**MASSACHUSETTS
TRANSGENDER
POLITICAL
COALITION**



Revised June 2023

I.	Letter from the Executive Director	3
II.	Purpose	5
III.	Common Definitions	6
IV.	Phrases To Avoid	9
V.	Recommended Policies and Procedures	10
	A. Non-discrimination Policies	10
	B. Respect At All Stages	10
	C. Confidentiality	11
	D. Harassment	11
	E. Preliminary Housing Accommodations	12
	F. Intake and Screening	13
	G. Forms and Identification of Individuals	14
	H. Accommodations	14
	1. Sleeping Arrangements	16
	2. Bathrooms	16
	3. Showers	17
	I. Health Issues	17
	J. Dress Code	19
	K. Training	19
	L. Implementation	20
VI.	Laws Protecting the Rights of TNBGNC Guests	21
VII.	Resource List	24
VIII.	Works Cited	25
IX.	Acknowledgments	27

This document was informed by the prior work of many researchers and advocates. Citations for these works can be found in the Works Cited section. "Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People" (Mottet & Ohle 2003) was particularly influential. If you would like to cite this report, we suggest using the following citation:

Massachusetts Transgender Political Coalition (2023). *"Shelter for All Genders: Best Practices for Homeless Shelters, Services, and Programs in Massachusetts in Serving Transgender, Nonbinary, and Gender Non-Conforming Guests."*



TABLE OF CONTENTS

LETTER FROM THE EXECUTIVE DIRECTOR

The following recommendations were prepared by the Policy Committee of MTPC (2013) and reflect the best practices for inclusive shelters and programs used in other areas of the United States; existing laws, policies, and regulations for shelter systems in other states; and policy recommendations devised by transgender and LGBT think tanks and shelter policy specialists. This document was revised in June 2023 to reflect current language and policies. These recommendations address fair treatment, equal rights, and the safety of transgender, nonbinary, and gender non-conforming (TNBGNC) persons accessing emergency and transitional shelters and other services in Massachusetts.

According to the 2015 U.S. Trans Survey (USTS), the largest survey conducted by the National Center for Trans Equality examining the experiences of TNBGNC people in the United States; nearly one-third (30%) of respondents experienced houselessness at some point in their lives. One in eight (12%) experienced houselessness in the past year because of being TNBGNC. Nearly one-quarter (23%) of respondents 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 TNBGNC. More than one-quarter (26%) of respondents who were houseless in the past year avoided staying in homeless shelters because they feared they would be mistreated as a TNBGNC person. Seventy percent (70%) of those who stayed in a shelter in the past year reported some form of mistreatment because of being TNBGNC.

- More than half (52%) of those who stayed at a shelter in the past year were verbally harassed, physically attacked, and/or sexually assaulted because of being TNBGNC.
- Nearly one in ten (9%) respondents were thrown out once the shelter staff found out that they were TNBGNC, and 44% decided to leave the shelter because of poor treatment or unsafe conditions.
- One-quarter (25%) decided to dress or present as the wrong gender in order to feel safe in a shelter, and 14% said that the shelter staff forced them to dress or present as the wrong gender in order to stay at the shelter.

In July 2012 the Massachusetts legislature passed the state law An Act Relative to Gender Identity. In addition to prohibiting discrimination in employment, education, and credit/lending on the basis of gender identity in Massachusetts, this law extends to housing protections. Between December 2019 – March 2020, MTPC surveyed 339 TNBGNC individuals across the Commonwealth. The Working for Lived Equity (W4LE) community needs assessment reported that more than half of the respondents identified housing stability and houselessness as their top basic needs concern.

Housing is one of the most vital needs that all people share. However, many TNBGNC people still face overwhelming levels of discrimination when seeking housing, and are vulnerable to actions such as eviction because of their TNBGNC status. Such discrimination, including family rejection and other risk factors, can lead to housing instability and higher rates of homelessness.

For TNBGNC people who experience homelessness, shelters can present additional problems and often are unsafe environments. Previous studies have found that shelters frequently turn TNBGNC people away because of their gender identity or gender expression, or require them to stay in facilities that are inappropriate for their gender, often putting them at further risk of discrimination, harassment, and violence.

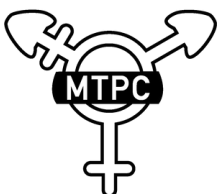
The Fair Housing Act prohibits housing and housing-related discrimination because of race, color, national origin, religion, sex (including gender identity and sexual orientation), familial status, and disability. In January 2021, President Joe Biden issued an executive order "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation," applying the reasoning in the 2020 Supreme Court Bostock v. Clayton County decision to all federal agencies. The US Department of Housing and Urban Development (HUD) became the first agency to implement the terms of the executive order in February 2021, when they confirmed that they will enforce Fair Housing Act protections for LGBTQ+ people. "HUD's Equal Access Rule requires equal access to HUD housing programs without regard to a person's actual or perceived sexual orientation, gender identity, or marital status."

This revised document offers suggestions for how shelters and programs can conform to that law and reflect an important step forward in supporting the integrity of all individuals accessing safe housing in Massachusetts. MTPC looks forward to collaborating with shelters, programs, and shelter agencies to implement these best practice recommendations across Massachusetts.

Thank you,



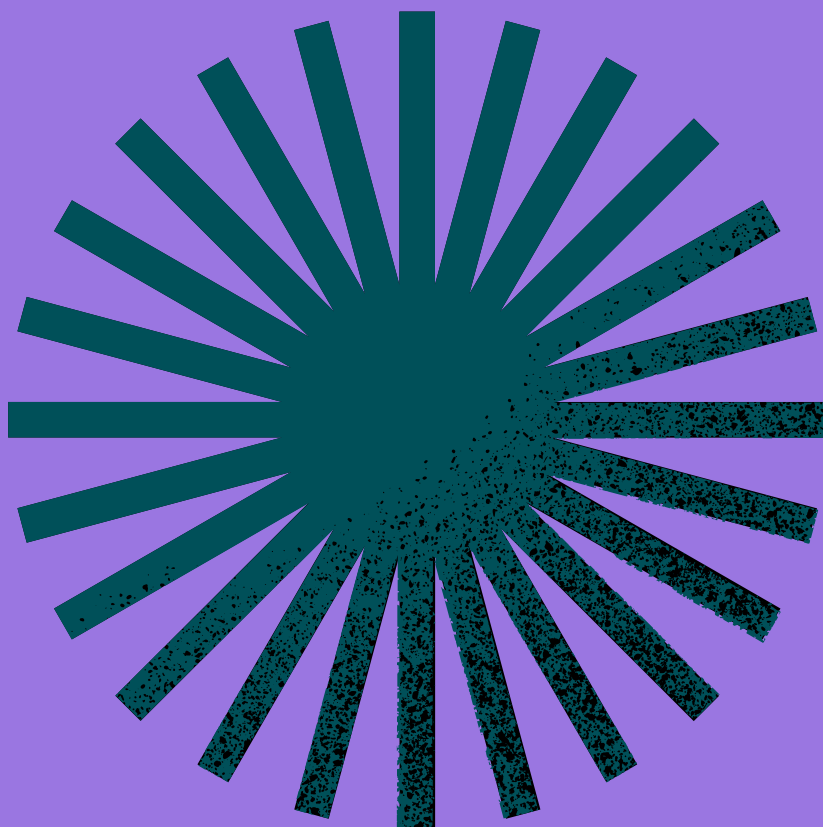
Tre'Andre Carmel Valentine
Executive Director



PURPOSE

The purpose of these best practices is to ensure the safety, dignity, and well-being of transgender, nonbinary, and gender non-conforming (TNBGNC) persons accessing homeless shelters and programs in Massachusetts. This brief lays out guidelines for homeless shelter and program staff to better assist TNBGNC guests to safely access shelters and programs.

We begin by providing definitions of key terms in this document that will be important while working with TNBGNC guests. We then offer recommendations on policies and practices that shelters and programs can implement to promote a safe and welcoming environment for TNBGNC guests. After the recommendations, we present a section on laws that protect TNBGNC guests in shelters, as well as information on how to enforce these laws.



COMMON DEFINITIONS

The best advice in this document is to treat TNBGNC guests with respect. Respect is key to ensuring safety and equal access for all guests. The use of language is one way that shelter and program staff can show respect. Staff should take care to use words that affirm guests' identities and avoid words that are offensive.

Transgender, nonbinary, and gender non-conforming people vary in what terms they use and prefer to use to describe their experiences. If you are unsure if a term is affirming or offensive to an individual guest, you may ask the guest what terms they use for themselves. The following list of common definitions will be helpful when working with TNBGNC guests:

Assigned Sex: A person's sex as assigned at birth, typically by a physician or midwife, based on the person's anatomy. One's assigned sex may or may not correspond to one's gender identity or gender expression. *Avoid saying "born a girl/boy" or "used to be a man/woman".*

Chosen Name or Common-Use Name: The name with which a person identifies and how they are to be addressed. A person may or may not do a legal name change. Massachusetts law allows people to change their names for honest purposes by simply beginning to use a different name without obtaining a legal name change (see *Merolevitz, Petitioner*, 320 Mass. 448 (1946)). However, some people choose to complete a name change petition in order to make it easier to change their names on official documents and in other contexts. A fee waiver is available for low-income people. See MTPC's name change kit for more information: <https://www.masstpc.org/what-we-do/ida-network/>

Gender Affirming HealthCare: A variety of supports, procedures, and/or medical treatments that a TNBGNC person may pursue in order to feel more aligned with the gender they know themselves to be. *Avoid using the term "sex change surgery" and inquiring about medical procedures unless absolutely necessary.*

Gender Dysphoria: Discomfort or distress that is caused by a discrepancy between a person's gender identity and that person's sex assigned at birth

Gender Identity (legal definition): A person's internal sense of being male, female, or something else such as agender, binary, gender fluid, gender nonconforming, genderqueer, or nonbinary. Since gender identity is internal, one's gender identity is not visible to others. All people have a gender identity. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held, as part of a person's core identity; provided, however, gender-related identity shall not be asserted for any improper purpose.

Gender Identity (colloquial definition): The way in which people identify and describe their own gender or inner sense of being a man, woman, or something else, regardless of the person's assigned sex at birth.

Gender Expression (colloquial definition): The way in which people express their gender identity. This can include clothing, mannerisms, makeup, behavior, speech patterns, and social interactions that are perceived as masculine, feminine, or androgynous. *Note that someone's gender expression is **not** an indication of their gender identity.*

Gender Non-Conforming: A term that describes an individual whose gender identity and/or gender expression does not conform to stereotypical or traditional expectations.

Gender Transition: Gender transition is a personal process that a TNBGNC person goes through when they begin to live and identify as the gender they see themselves as. This process may include a social transition, with a person changing their gender expression, such as clothes and hairstyle. It may also include a change in pronouns, and possibly their first name, to be reflective of the gender they know themselves to be. This process may also include support from a therapist and a medical transition, which can be hormone replacement therapy and/or gender affirmation surgeries.

Some TNBGNC people may not have access to gender-affirming medical treatment due to the prohibitive cost, lack of access to providers, physical health issues, lack of health insurance coverage, and/or personal reasons.

The reality is that many TNBGNC people live, present, and are accepted as the gender they see themselves as without gender-affirmation medical treatment, hormones, and/or gender-affirmation surgeries.

Nonbinary: An umbrella term that describes a gender identity that is not strictly male or female and does not fit into the gender binary. Nonbinary people may use pronouns like “they”, “them”, and “theirs” or a variety of other pronouns.

Self-Identification: the concept that a person's gender (or other characteristic) should be determined by themselves without medical intervention; allows TNBGNC people to self-determine their gender without psychiatric diagnosis.

Transgender: An umbrella term for people whose gender identity and/or gender expression is different from their assigned sex, whether or not they have had any gender-related medical or surgical treatments. Avoid saying “a transgender” or “a trans” and the spelling “transgendered.” *Transgender may be abbreviated to “Trans”.*

Transgender or Trans Man: A person who is a man that was assigned a sex other than male at birth. Transgender men may use pronouns like “he”, “him”, and “his”. Avoid saying “a transgender” and the spelling “transgendered”.

Transgender or Trans Woman: A person who is a woman that was assigned a sex other than female at birth. Transgender women may use pronouns like “she”, “her,” and “hers”. Avoid saying “a transgender” and the spelling “transgendered”.

Transmasculine: an umbrella term that describes a transgender person (generally, but not exclusively, one who was assigned female at birth), and whose gender is masculine and/or who expresses themselves in a stereotypically masculine way. *May be abbreviated to “transmasc.”*

Transfeminine: an umbrella term that describes a transgender person (generally, but exclusively, one who was assigned male at birth), and whose gender is feminine and/or who expresses themselves in a stereotypically feminine way. *May be abbreviated to “transfemme.”*

PHRASES TO AVOID

THE FOLLOWING TERMS AND PHRASES ARE OFTEN CONSIDERED OFFENSIVE OR DEROGATORY TO TNBGNC PEOPLE:

Transvestite
Transsexual
She-male
He/she
It

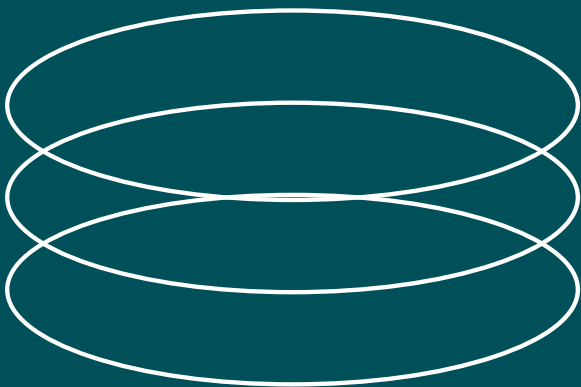
Man in a dress
Pre-op/Post-op
Woman that wants to be a man
Born a woman

A trans
Transgendered
Preferred Name
Preferred Pronoun
Sex Change

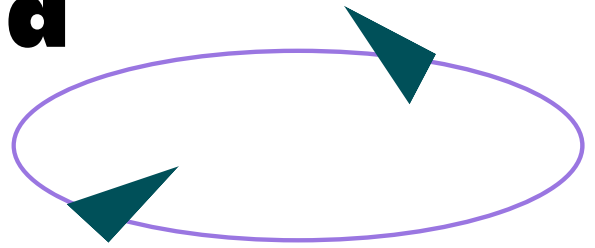
Trannie/Tranny
Shim
Brick
Clocked
Born a man

Don't Ask Questions Like:

Have you had "the surgery"?
What was your name before?
What is your real name?
When did you feel like a boy?
When did you feel like a woman?



Recommended Policies and Procedures



A.

NON-DISCRIMINATION POLICIES

Programs and shelters should add “gender identity” and “gender expression” to the list of attributes that are protected from discrimination in their internal policies. For example, a shelter or program with an internal policy that no guest can be refused service due to race, religion, ethnicity, gender, sexual orientation, veteran status, or marital status, should revise its policy to state that guests also may not be refused service due to their gender identity or gender expression.

B.

RESPECT AT ALL STAGES

Shelter and program staff should take steps to show TNBGNC guests that they are welcome and respected. At all times, starting with intake and ending with discharge, shelter and program staff should refer to guests by guests’ chosen names and pronouns. In addition, shelter and program staff should not ask probing questions about a guest’s gender identity or gender expression unless the information is relevant to ensuring that the guest has a safe stay at the shelter or a positive experience in other social service programs. For example, a staff member working with a guest to determine sleeping arrangements should not inquire about whether the guest has had any sex reassignment surgeries. If the guest raises a topic, then the staff member could discuss it with the guest, as long as the discussion is respectful and on the guest’s terms.

C.

CONFIDENTIALITY

When working with TNBGNC guests, it is especially important to respect the guests' right to privacy. Disclosing a person's status as transgender, nonbinary or gender non-conforming may put that guest's safety at risk. For example, shelter and program staff must be mindful to always use the guest's chosen name and pronouns, since using a former/deadname or the wrong pronoun could disclose a guest's status as a TNBGNC person. Furthermore, shelter and program staff should discuss in a private/confidential space any matters that could disclose a guest's gender identity.

If information regarding a guest's legal name and/or sex at birth is needed and/or collected, it should be kept confidential. **A breach in this protocol may endanger a TNBGNC person's safety.** Only staff who must know, in order to keep the guest safe or for essential functions, should be told of the guest's transgender, nonbinary or gender non-conforming status, unless the guest freely chooses to share this information.

D.

HARASSMENT

Harassment can be traumatic for any guest. Shelters and programs should revise their existing harassment policies to explicitly cover harassment related to gender identity and expression. Specific forms of harassment that a TNBGNC person may confront based on their gender identity or expression include, but are not limited to, the following:

- Deliberately not using the guest's chosen name, misusing a form of address, and/or not using the correct pronoun.
- Asking inappropriate personal questions about the guest's body, genitals, gender identity or expression, or gender transition, including whether the individual has or plans to have medical or surgical procedures.

- Disclosing to others that the guest is transgender, nonbinary or gender non-conforming.
- Posting offensive pictures, or sending offensive electronic or other communications related to the guest, including telephone, internet, and text-messaging harassment.
- Making derogatory remarks, jokes, insults, threats, or epithets including negative stereotypes about TNBGNC people or homophobic comments in the presence of any guest.
- Asking a guest's former name (also known as "deadname").

In addition to taking the initiative to ensure that no staff or guests engage in harassment, shelters and programs should take all possible steps to ensure that no outside vendors, service providers, or other third parties harass TNBGNC guests.

If any instance of harassment does occur, shelter/program staff and leadership should follow the same policies and procedures as with any other guest issue and with the **same level of urgency** as they would use for harassment based on race, disability, primary language, or any other category or identity.

E.

PRELIMINARY HOUSING ACCOMMODATIONS

In circumstances in which shelters, programs, and/or housing is sex-segregated, TNBGNC individuals seeking shelter must be placed in the sleeping quarters, programs, and/or housing of the gender the individual lives and identifies as. For instance, a transgender woman should be placed in women's programs, and a transgender man should be placed in men's programs unless the individual indicates that they wish to be placed elsewhere. Nonbinary and/or gender non-conforming guests who do not identify as a man or a woman should be able to choose the gendered quarters/programs that best align with their gender if gender-inclusive options are not available.

Some TNBGNC individuals may not feel ready to be in the gendered space with which they identify. A failure to appropriately assign TNBGNC guests could result in violence, harassment, sexual assault, and other types of abuse, and could be a violation of a federal, state, or local law or policy, as described in Section V of this document.

Transgender, nonbinary, and gender non-conforming persons should be allowed to stay in a sex-segregated shelter or program that correlates with the gender with which they identify. The majority of TNBGNC guests will choose women's shelters if they live and identify as women, and men's shelters if they live and identify as men. However, a guest who feels that they would be unsafe in a shelter that matches their gender identity should be allowed to stay in another shelter in which they feel safe. For example, many trans men participants in a study in Toronto reported fearing for their safety when they used men's shelters, leading 29% to use women's shelters instead (FTM Safer Shelter Project Team, 2008).

Men's and women's shelters and programs should post welcoming messages. For example, a women's shelter could post a sign saying: **“We welcome all women here: women of different races, religions, sexual orientations, gender expressions, and gender identities.”**

F.

INTAKE AND SCREENING

Shelters and programs should eliminate check-in areas designated by gender and have only one area for checking in all guests. Shelters and programs should provide the opportunity for people to indicate their chosen name beginning with the initial intake or sign-in sheet. The sign-in sheet should ask for common-use name. Only chosen names should be called out in public; legal names should be kept confidential.

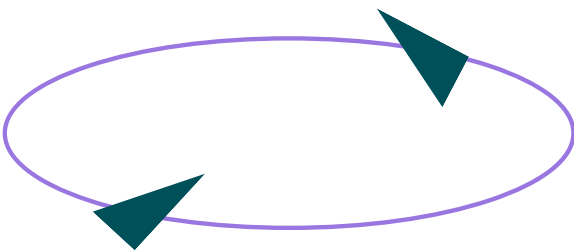
Throughout the process, intake staff should avoid making assumptions about a guest's gender based on anything other than the guest's description of their own gender. For example, staff should not assume gender based on the guest's voice, clothing, appearance, documentation, or ID.

If the intake procedure includes body searches, urine tests, or other such processes, shelter, and program staff should ensure that a guest is comfortable with the staff member who is administering or overseeing these processes. For example, a TNBGNC individual may be more comfortable with a staff member whose gender matches the guest's gender identity.

G.

FORMS AND IDENTIFICATION OF INDIVIDUALS

If the information is collected, intake forms should include a space for “gender identity or gender,” “chosen name,” and “pronouns,” as opposed to “legal name” and “sex.” If there are forms that are not within the shelter or program’s purview to change, staff should explain the limitations of the form to the guest so that the guest understands that the shelter or program staff supports the guest’s identity.



H.

ACCOMMODATIONS

Sleeping, showering, and using the bathroom in a congregate shelter or program facility are vulnerable experiences for all guests. This can be especially true for TNBGNC guests.

Respecting rights to privacy and self-determination and providing appropriate options help ensure everyone’s safety, dignity, and comfort. All efforts to ensure the safety of TNBGNC guests should be made.

A TNBGNC guest may choose not to disclose their status to anyone for fear of discrimination, ridicule, harassment, or violence, or they may only disclose to one individual or only after establishing some level of trust and experience with the staff and other guests.

Discuss with TNBGNC guests their concerns regarding personal, emotional, and/or physical safety. Review all available options for sleeping arrangements and bathroom and shower facilities, including men's, women's, and gender-inclusive or single occupant. Conduct these conversations in such a way that they are private and confidential and do not bring unwanted attention to the individual or situation.

Allow TNBGNC guests to choose those options that they feel are safest for themselves. These choices should not be made by staff and should not be dependent on gender-related medical treatment or status. In some cases, a guest may for safety reasons choose a sex-segregated space that correlates with their birth sex and not their gender identity.

In instances where another shelter or program guest may object to sharing facilities with a TNBGNC guest, consider how the situation would be handled if the objection were based on another form of oppression, such as racism. The same skills and strategies used to effectively deal with a situation involving racism, sexism, or ableism can be applied to situations involving discrimination based on gender identity or expression. A TNBGNC guest should not have to accommodate the prejudice of another guest.

Not all TNBGNC people present and live in their gender 100% of the time. Living in one's gender full-time comes with many risks, including discrimination and violence. Furthermore, an individual may have difficulty obtaining identification documents that match their chosen name and gender, especially if they are low-income or if they are not a U.S. citizen. Without identification documents that reflect the gender and name they use, the individual may face additional barriers and risks. As a result, **many people transition over time.** Consequently, some guests may present as one gender at some points (for example, during the daytime in their work environments) and as a different gender after work, to match the gender they know themselves to be. In these instances, staff should have respectful discussions with the guest to understand their needs and their sense of what accommodations will best promote their safety and well-being. In addition, a guest may change their gender or name during their stay at the shelter. When this occurs, staff should discuss options with the guest and identify whether any changes in accommodations should be made in order to ensure the guest's safety and well-being (Mottet & Ohle, 2003).

Homeless shelters and programs in Boston have been enforcing non-discrimination protections for TNBGNC guests for over 20 years. Their decades of experience is proof that any challenge that may arise can be managed.

For more suggestions on accommodations, we recommend that you refer to the Mottet and Ohle 2003 *Transitioning Our Shelters* report or Quinn's 2010 *Open Minds Open Doors* report.

1. SLEEPING ARRANGEMENTS

In some cases, typical sleeping arrangements may not be safe for TNBGNC guests. If there is any question of safety, provide TNBGNC guests the option of sleeping within sight and hearing of staff. If available, a single room may also be offered. Be aware that these arrangements may draw unwanted attention to the situation, so it's important to allow TNBGNC guests to decide for themselves the most appropriate option.

2. BATHROOMS

Allow guests to use bathrooms that correspond to their gender identity. For example, a transgender woman should be allowed to use the women's room, and a transgender man should be allowed to use the men's room. Nonbinary guests should be able to freely choose which gendered bathroom they use if no gender-inclusive options are available. If the guest has concerns, provide bathroom facilities based on the guest's concerns regarding safety and social comfort.

- Provide, if possible, gender-inclusive bathrooms for all guests to use. Do not require this as the only option for TNBGNC guests. Restricting choices in this way may draw unwanted attention to the individual or situation.
- Ensure that bathrooms that include stalls have doors on the stalls with functional locks for the privacy and safety of all guests. If the shelter or program facility has bathrooms with stalls that do not have doors with functional locks, consider implementing plans to construct them.

- If sanitary products are provided in women's restrooms, they should be provided in men's and gender-inclusive restrooms as well.
- Shelters and programs may wish to post signs in bathrooms reminding all guests to please let other guests use the restroom in peace, as each of us can decide for ourselves which restroom we belong in.

3. SHOWERS

Allow guests to use showers that correspond to their gender identity. Offer shower facilities based on a guest's concerns regarding safety.

As with bathroom facilities, ensure that shower stalls have doors on the stalls with functional locks for the privacy and safety of all guests.

Where available, allow TNBGNC guests to use individual stalls. If only open stalls exist in the facility, staff should make accommodations to ensure the privacy and safety of all guests. For example, staff can divide shower stalls with curtains or make arrangements for guests to use the shower at a time when the shower area is closed to other guests. As with bathroom facilities, do not require this as the only option for TNBGNC guests. Restricting choices in this way may draw unwanted attention to the individual or situation. Shelters and programs should incorporate plans to construct individual stalls into their short-term or long-term plans.

I.

HEALTH ISSUES

Transgender, nonbinary, and gender non-conforming guests may experience the same health issues as all guests, in addition to gender-related health needs. Shelter and program staff must remember that medical treatments do not determine any guest's TNBGNC status, as not all TNBGNC individuals are on hormone therapy or undergo gender affirmation procedures.

If a facility has a triage station and intake nurse upon arrival, TNBGNC guests should be triaged to Health Services after intake, as any guest would. The nurse on duty should conduct the initial assessment. The nurse should refer to the patient as the chosen name and gender markers indicated on the intake form. The nurse will determine what medications the guest is currently taking, including, but not limited to, hormone therapy.

Guests should be assigned to health services based on health needs, not solely based on perceived TNBGNC identity.

Transgender, nonbinary, and gender non-conforming guests currently undergoing hormone therapy should have readily available access to these medications, just as any other guest has the right to obtain medications that are currently prescribed. Abruptly stopping hormone therapy results in both mental and physical side effects. If guests are taking hormones intramuscularly or subcutaneously, they will also need access to sterile needles and syringes. Shelters and programs should provide these resources, if possible, or should refer guests to places where they can obtain these free or at a low cost. Shelters and programs should use the same protocol for guests who need syringes to take hormones as they use for any guest who needs to use a syringe in order to take any medicine, such as insulin.

Due to the difficulties that TNBGNC people face in accessing hormone prescriptions, it may not be uncommon for a TNBGNC person to obtain hormones without a doctor's prescription. If guests have obtained hormones in this way, they should be referred to a healthcare professional to obtain a medical treatment plan as soon as possible. The following organizations are good resources for any health-related questions you may have regarding serving your TNBGNC guests:

- **Boston Health Care for the Homeless**, <https://www.bhchp.org/services/transgender-services/>
- **Fenway Health**, <http://www.fenwayhealth.org>
- **Sidney Borum Jr. Health Center**, <http://sidneyborum.org>
- **TransHealth Northampton**, <https://transhealth.org/>

For more organizations across Massachusetts, refer to **New England Gender C.A.R.E Consortium**: <http://negendercare.org/>

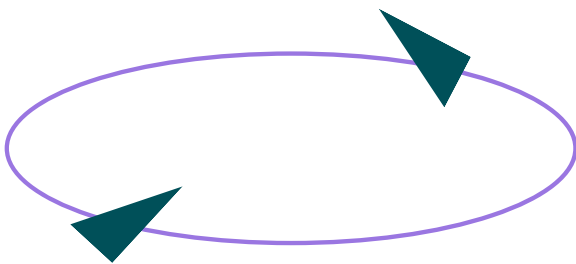
J.

DRESS CODE

Shelters and programs that have dress codes should make sure that the dress code is not based on gender or gender stereotypes. For example, a dress code that is not based on gender includes:

“Everyone must wear clothing covering their chest to their knees.”

This will give all residents more freedom in their dress, gender expression, and presentation.



At a minimum, staff trainings should include the following:

- Guidelines for how staff should interact with guests
- Intervention techniques that are sensitive to the needs of TNBGNC guests
- Culturally appropriate intake procedures
- Legal rights and responsibilities

K.

TRAINING

Each facility is strongly recommended to require that management receive training on diversity, equity, and inclusion, including issues related to TNBGNC guests, at least once a year. It is also recommended that all other staff attend yearly training and that management incorporate this information into staff meetings or other general staff trainings. New hires and volunteers should receive diversity, equity, and inclusion training that covers issues related to TNBGNC guests within their first six months. The training should at minimum cover the points highlighted in this document.

Training can be coordinated through local TNBGNC organizations that provide comprehensive trainings on TNBGNC issues such as **MTPC**. Providers should take care to identify organizations that are generally reputable and trusted by TNBGNC communities. Shelters and programs should also consider hiring these organizations to develop a training curriculum and provide train-the-trainer services to enable the shelter or program to train its own staff after an initial session.

L.

IMPLEMENTATION

Shelters and programs should take steps to create an accepting environment. Doing so will also help educate staff and other guests. The following are specific actions that shelters or programs can take to demonstrate that their environment is accepting:

- Posting welcoming signs that say “transgender people are welcome here” or “we serve many types of women here” (Mottet & Ohle, 2003) and making materials with information about resources available to TNBGNC guests freely available and easily accessible to all guests
- Posting the shelter or program’s non-discrimination policy in clear sight of all guests
- Including this protocol in the staff and volunteer handbooks, for the easy reference of both new hires and seasoned staff



LAWS PROTECTING THE RIGHTS OF TNBGNC GUESTS



The following recommendations and policies provide for equal access to shelters and programs for TNBGNC guests. They are consistent with federal regulations and state and local laws that prohibit discrimination against TNBGNC shelter and program guests.

Massachusetts's civil rights law prohibits discrimination against TNBGNC shelter and program guests. State courts interpret the public accommodations statute's proscriptions on sex and disability discrimination to reach discrimination against people because they are transgender (see Mass. Gen. Laws Ann., ch. 272, §98). Furthermore, the housing non-discrimination law now explicitly prohibits gender identity discrimination (see Mass. Gen. Law, ch. 151B, §4). The law's expansive definition of housing is such that this ban should apply to many shelters (see Mass. Gen. Laws Ann., ch. 151B, §1). In addition, Amherst, Boston, Cambridge, and Northampton all have local ordinances prohibiting discrimination against transgender people (see Amherst General Bylaws, et al).

Shelters and programs that receive Department of Housing and Urban Development (HUD) funding must provide equal access to transgender people. A newly promulgated HUD regulation requires that HUD assisted housing "shall be made available without regard to actual or perceived ... gender identity" and specifically disallows inquiry as to a person's gender identity "for the purpose of determining eligibility for the housing or otherwise making such housing available" (see 24 C.F.R. §§5.105(a)(2)(i)-(ii)).

Furthermore, a separate regulation requires all recipients of HUD funds to comply with their state and local non-discrimination laws “proscribing discrimination in housing based on sexual orientation or gender identity” (see Department of Housing and Urban Development, 2011). These two regulations in combination make clear that HUD-funded shelters and programs in Massachusetts must not discriminate against transgender guests (Id.)

The HUD regulation allows, but does not require, inquiry as to a person’s sex in certain situations involving emergency accommodations with shared sleeping quarters and/or bathrooms (see 24 C.F.R. §5.105(a)(2)(ii)). In order to avoid conflict with Massachusetts anti-discrimination law, local ordinances, and the Fair Housing Act, shelters and programs should avoid such inquiries. Questioning only those guests whom shelter staff perceive to be TNBGNC about their anatomy or medical history in order to determine sex is impermissible discrimination based on gender identity and sex stereotyping (see *Lie v. Sky Pub. Corp.*, 2002 WL 31492397 (Mass. Super., 2002), et al.).

The Fair Housing Act (FHA) also protects TNBGNC shelter guests. HUD announced that it interprets the FHA’s provision against discrimination on the basis of sex to cover TNBGNC people who are discriminated against because of “non-conformity with gender stereotypes” (U.S. Department of Housing and Urban Development, 2012). Thus, shelters covered by the FHA cannot deny admission to or treat guests differently because they are TNBGNC.

Massachusetts’s non-discrimination law also prohibits gender identity discrimination in employment. It is illegal for any shelter or program to fire, not hire or not promote a qualified worker based solely on the worker’s gender identity or expression (see Mass. Gen. Law, ch. 151B, §4). MTPC recommends that shelters and programs recruit TNBGNC staff to promote a welcoming environment for TNBGNC guests.

ENFORCING THESE LAWS AND POLICIES

Anyone who experiences or witnesses discrimination based on gender identity or expression has the right to report the discrimination to local, state, or federal authorities. Anyone, including TNBGNC individuals, can file a complaint with the Massachusetts Commission Against Discrimination (MCAD). MCAD may be able to take action on the grounds that the state protects against discrimination based on sex and gender identity and expression. If the discrimination occurs at a shelter or program that receives funding from the U.S Department of Housing and Urban Development (HUD), HUD can take action based on its own anti-discrimination policy. For more information on these laws and regulations, please refer to the prior section on laws protecting the rights of TNBGNC guests.

To contact the Massachusetts Commission Against Discrimination:

Boston Office

(617) 994-6000

(617) 994-6024 (fax)

Springfield Office

(413) 739-2145

(413) 784-1056 (fax)

To report discrimination to HUD, contact:

Boston Regional Office of FHEO
U.S. Department of Housing and Urban Development
Thomas P. O'Neill Jr. Federal Building
10 Causeway Street, Room 308
Boston, Massachusetts 02222-1092

(617) 994-8300

1-800-827-5005

TTY (800) 877-8339

RESOURCE LIST

GLAD

GLBTQ Legal
Advocates & Defenders
Legal Helpline
1-800-455-GLAD (4523)
<https://www.glad.org/know-your-rights/glad-answers/>

Whenever possible, refer your TNBGNC guest to a service or practice that is knowledgeable and affirming of TNBGNC issues.

Individuals can contact MTPC at info@masstpc.org for affirming resources and services.

NCTE

National Center for
Trans Equality

<https://transequality.org/>

TEF

Transgender Emergency
Fund

<https://transemergencyfund.org>

TLC

Transgender Law
Center

<https://transgenderlawcenter.org/>

TLDEF

Transgender Legal Defense
and Education Fund

<https://www.transgenderlegal.org/>

WORKS CITED

Amherst General Bylaws, Human Rights Bylaw 1; City of Boston Municipal Code §12.9-7; Cambridge Code of Ordinances Title 2, ch. 2.76, § 120(M)(1); Human Rights Commission Ordinance, Northampton Code, §1-3.

Department of Health and Human Services. (2011). *HIV infection among transgender people*. Atlanta: Centers for Disease Control and Prevention.

Department of Housing and Urban Development (HUD). (2011). *Notice of HUD's fiscal year 2012 - Notice of funding availability policy requirements and general section to HUD's FY 2012 NOFAs for discretionary programs at 24-25*.

Gay and Lesbian Alliance Against Defamation. (n.d.). GLAAD's transgender resources. Retrieved from <http://www.glaad.org/transgender?gclid=CJDb-YCA4LACFYFo4Aodsw253Q>.

Gender Education and Advocacy, Inc. (2001). Basic tips for health care and social service providers working with transgendered people. Retrieved from <http://www.gender.org/resources/dge/gea01006.pdf> on February 15, 2013.

Grant, J. M., Mottet, L. A., Tanis, J., Harrison, J., Herman, J. L., & Keisling, M. (2011). *Injustice at every turn: A report of the national transgender discrimination survey*. Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force.

Institute of Medicine. (2011). *The health of lesbian, gay, bisexual, and transgender people: Building a foundation for better understanding*. Washington, DC: National Academies Press.

Lie v. Sky Pub. Corp., 2002 WL 31492397 (Mass. Super. 2002) (finding transgender plaintiff's claim of sex discrimination, bought under the state employment discrimination statute, could survive summary judgement); *Jette v. Honey Farms*, 2001 WL 1602799 (Mass. Comm'n Against Discrimination Oct. 10, 2001) and *Millett v. Tutco*, 2001 WL 1602800 (Mass. Comm'n Against Discrimination Oct. 10, 2001) (holding that transgender people are protected by state law prohibitions against sex and disability discrimination); *Doe ex rel. Doe v. Yunits*, 2000 WL 33162199 (Mass. Super. 2000) (holding that a transgender student had stated viable sex and disability discrimination claims under state law), *aff'd sub nom. Doe v. Brockton School Committee*, 2000 WL 33342399 (Mass. App. Ct. 2000), *Doe ex rel. Doe v. Yunits*, 2001 WL 664947 (Mass. Super. 2001).

Massachusetts Coalition for the Homeless. (2004). *Breaking through the barriers: A practical guide for shelters on reasonable accommodations*. Retrieved from <http://www.dlc-ma.org/resources/Housing/HOU36%20Shelter%20Accommodations.pdf>.

Merolevitz, Petitioner, 320 Mass. 448 (1946).

Mokonogho, J., Mittal, S., & Quitangon, G. (2010). Treating the transgender homeless population: Experiences during residency training. *Journal of Gay & Lesbian Mental Health, 14*(4), 346-354.

Mottet, L. & Ohle, J. (2003). *Transitioning our shelters: A guide to making homeless shelters safe for transgender people*. New York: The National Coalition for the Homeless and the National Gay and Lesbian Task Force Policy Institute.

National Center for Transgender Equality. (2011). *Making shelters safe for transgender evacuees*. Washington, DC: Author.

National Center for Transgender Equality, (2015). *The Report on the 2015 U.S. Transgender Survey*. Washington, DC: Author.

Public Health Commission. (2002). *Protocol for serving transgender guests*. Boston: Homeless Services.

Quinn, M-E. (2010). *Open minds open doors: Transforming domestic violence programs to include LGBT survivors*. Boston: The Network/La Red.

Ray, N. (2006). *Lesbian, gay, bisexual and transgender youth: An epidemic of homelessness*. New York: National Gay and Lesbian Task Force Policy Institute and the National Coalition for the Homeless.

Soo Hoo, M. (2009). Interview by Aden Michaud about the Boston Public Health Commission.

The FTM Safer Shelter Project Team (2008). *Invisible men: FTMs and homelessness in Toronto. Ontario*: Wellesley Institute.

U.S. Department of Housing and Urban Development. (2012). *Ending housing discrimination against lesbian, gay, bisexual and transgender individuals and families*. Retrieved from http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination.

U.S. Department of Housing and Urban Development. (2012). *Equal access to housing in HUD programs regardless of sexual orientation or gender identity* (77 FR 5662-01). Washington, DC: Office of the Secretary, HUD.

U.S. Department of Housing and Urban Development.
https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview

University of California at Berkely (2009). *Definition of Terms*. Retrieved from <http://out.ucr.edu/SiteCollectionDocuments/Terminology.pdf>.

ACKNOWLEDGMENTS

Thank you to the MTPC volunteers and interns who contributed to these best practices:

Aden Michaud
Ashley Berman
Bobbi Taylor
Connor Barusch
Christina Knowles
Donna Cruz
Emilia Dunham
Ez Cukor
Marco Yuri Leitner-Laserna
Rachel Denger
Rachel F.
Raffi Freedman-Gurspan
Rose MacKenzie
Gunner Scott
Talia Stoessel
Victoria

Revised by:
MG Xiong
Tre'Andre Carmel Valentine





**MASSACHUSETTS
TRANSGENDER
POLITICAL
COALITION**

SHELTER FOR ALL GENDERS

**Best Practices for Homeless
Shelters, Services, and Programs
in Massachusetts in Serving
Transgender, Nonbinary, and
Gender Non-Conforming Guests**

**MTPC
PO Box 960784
Boston, MA 02196
www.masstpc.org
info@masstpc.org**