



Office of Temporary and Disability Assistance

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Administrative Directive Memorandum

Section 1

Transmittal:	20-ADM-03
To:	Social Services District Commissioners
Issuing Division/Office:	Division of Shelter Oversight and Compliance
Date:	January 28, 2020
Subject:	Providing Services to Transgender, Gender Nonconforming, and Non-Binary People Experiencing Homelessness
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Contact Person(s):	Division of Shelter Oversight and Compliance at (518) 486-4040
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Filing References

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
		18 NYCRR 352.35; 18 NYCRR Part 491; 18 NYCRR Part 900	SSL 62 SSL 131 SSL 131-v	TASB Chapter 27, Section B	

Section 2

I. Summary

The purpose of this Administrative Directive (ADM) is to assist social services districts (districts), emergency shelter operators and emergency shelter staff in providing culturally competent assistance and services to transgender, gender nonconforming, and non-binary (TGNCNB) people experiencing homelessness in a manner consistent with federal, state, and local laws.

II. Purpose

TGNCNB people experience homelessness at much higher rates than the general public because of frequent discrimination and abuse based on their gender identity and presentation, and also can face barriers to shelter services. This ADM provides guidance to districts, shelter operators and shelter staff to ensure that TGNCNB clients are treated with understanding, dignity and respect, and to help ensure that shelter and related services are available and provided to all TGNCNB clients.

III. Background

Of 1,779 transgender New Yorkers who participated in a 2015 survey conducted by the National Center for Transgender Equality, 27% reported experiencing homelessness sometime in their lives, and 11% experienced homelessness in the preceding year because of being transgender.¹ 30% of the respondents who experienced homelessness in the preceding year avoided staying in emergency shelters because they feared being mistreated. These statistics highlight that members of the TGNCNB community are overrepresented amongst people who are homeless, and how discrimination or the fear of discrimination impacts their ability to access vital services and more specifically, to obtain safe and stable housing.

Placing TGNCNB clients in shelters based on their genders assigned at birth rather than their self-identified gender identities can put clients at risk for degrading treatment and abuse, including harassment and sexual assault. The result of this treatment and the perceived risk is that many TGNCNB individuals elect to forgo staying at homeless shelters and instead remain unsheltered.

Districts and shelter operators must work to ensure the safety of this vulnerable group by implementing TGNCNB-inclusive policies to address the needs of TGNCNB people experiencing homelessness. Ensuring that TGNCNB people have access to safe and appropriate shelter and services requires district and shelter staff working with persons experiencing homelessness to be properly trained. District and shelter staff also must be able to respond effectively to other clients' objections to the presence of TGNCNB people by educating clients about TGNCNB people and the district's inclusive policies regarding this community, in order to provide a safe and accessible environment to everyone they serve.

¹ 2015 U.S. Transgender Survey: New York State Report. National Center for Transgender Equality. (Wash. D.C. Oct. 2017) (<http://www.transequality.org/sites/default/files/USTS%20NY%20State%20Report%20%281017%29.pdf>).

IV. Program Implications

OTDA's policy regarding TGNCNB clients in shelter is based upon the following principles:

- A. OTDA is committed to a policy of respect for all clients residing in shelter;
- B. OTDA does not discriminate on the basis of gender identity and will not tolerate such discrimination or harassment of any client residing in shelter;
- C. OTDA is committed to protecting the safety and privacy of all clients residing in shelter; and
- D. OTDA acknowledges that gender is not always defined by the sex a person was assigned at birth.

V. Required Action

A. Definitions

These definitions are provided to assist in understanding this ADM. This is not an exhaustive list, and clients may or may not use these terms to describe themselves or their experiences.

Gender expression: An individual's characteristics and behaviors (such as appearance, dress, mannerisms, speech patterns, and social interactions) that may be perceived as masculine or feminine.

Gender identity: A person's internal, deeply-felt sense of being male, female, or something other or in-between, regardless of the sex they were assigned at birth.

Gender nonconforming: This term describes people who have, or are perceived to have, gender characteristics and/or behaviors that do not conform to traditional or societal expectations. These expectations vary across cultures and have changed over time. The term includes non-binary persons.

Intersex: An umbrella term that refers to people born with sex characteristics that fall outside of traditional conceptions of male or female bodies (for example, variations in external genitalia or chromosome patterns).

Non-binary person: An individual who does not identify as male or female, but rather as neither, as a combination of both, and/or as something else.

Sex Assigned at Birth: The sex or gender designation given to a person at birth, usually based on the appearance of their external genitalia. Sometimes sex is assigned based on other factors, such as chromosome testing or the appearance of an intersex trait. This information is typically printed on a person's birth certificate and other documentation.

Sexual orientation: A person's physical or emotional attraction to people of the same and/or other gender. Straight, gay, and bisexual are some ways to describe sexual orientation. It is important to note that sexual orientation is distinct from gender identity and expression. Transgender people can be gay, lesbian, bisexual, or straight, just like non-transgender people.

Transgender: An umbrella term that can be used to describe people whose gender identity and/or expression is different from the sex assigned to them at birth. A person whose sex assigned at birth was female but who identifies as male is a transgender man (also known as female-to-male transgender person, or FTM). A person whose sex assigned at birth was male, but who identifies as female is a transgender woman (also known as male-to-female transgender person, or MTF). Some people described by this definition do not consider themselves transgender – they may use other words or may identify simply as a man or woman.

TGNCNB: Transgender, gender nonconforming, and non-binary.

Transition: The process of changing one's gender from the sex assigned at birth to one's gender identity. There are many ways to transition. For some people, it is a complex process that takes place over a long period of time, while for others it is a one- or two-step process that happens more quickly. Transition may include "coming out" (telling family, friends, and coworkers); changing the name and/or sex on legal documents; and, for many, but not all transgender people, accessing medical treatment such as hormones and surgery.

B. Intake and Assessment: Establishing Gender Identity of Client

A client's gender must be determined exclusively by their stated gender identity, regardless of what gender is indicated on other documentation. District staff should not assume a person's gender. District staff always should ask the client how they identify if the client does not self-identify. Staff may not inquire into the medical or surgical status of a transgender client's transition outside of what is asked of all clients (*i.e.* medications that are to be kept at the administration counter, specific physical and mental health needs being addressed by the program, etc.).

C. Placement and Physical Accommodations

Districts must work with TGNCNB clients to identify appropriate placements in shelters to meet their individual service needs and to assist them in moving toward independent living. To the extent that a district has gender-segregated adult shelters, single adult TGNCNB clients should be placed at a facility type (men's or women's) of their choosing.

There are districts across the State that have adult shelters that house men and women together. If the shelter has gender specific sleeping areas, the TGNCNB client may sleep in the area that houses the gender with which they self-identify.

People who self-identify as women may use the women's showers and bathrooms. Transgender women must have the same access to bathrooms, showers, changing areas, and bedrooms as persons assigned female at birth. People who self-identify as men may use the men's showers and bathrooms. Transgender men must have the same access to bathrooms, showers, changing areas, and bedrooms as persons assigned male at birth. People who self-identify as neither male nor female are to be housed in and use the bathrooms and showers in the section where they feel the safest.

TGNCNB clients should be treated equally and subject to the same rules about appropriate behavior in bathrooms and showers as all other clients. No additional staff monitoring, or rules are required.

D. Safety and Privacy of Physical Accommodations

Accommodations may be made for any individual, transgender or non-transgender, who has expressed safety or privacy needs. Accommodations are made according to each individual's needs and the ability of the district or shelter to provide such accommodations. Accommodations may include, among other things:

- Doors on bathroom stalls that can be latched or locked;
- Curtains or other devices in bathrooms or showers that provide the client with privacy;
- Alternate times to use the bathrooms or showers, if requested;
- Monitoring of showers or bathrooms to control entrance and exiting;
- Alternate housing arrangements, such as "Special Needs" housing;
- Set-aside sleeping, such as rooms or beds that are separate from others, if requested;
- Segregated sleeping where one wing is set aside; and
- Availability of beds close to night staff.

However, any requests to meet medical needs of TGNCNB persons must be considered to be requests for reasonable accommodations.

Under no circumstances will a TGNCNB person be required to use alternative facilities – including as an "accommodation" for another person's discomfort. Any resident who is concerned about privacy should be directed to the restrooms, bathrooms, and showers in the facility that allow for more privacy.

E. Dress Code

No additional dress code restrictions shall be placed on TGNCNB clients outside of what is asked of all clients, and clients must be allowed to dress in a manner consistent with their gender identity. TGNCNB clients should be allowed to dress in the way they feel most comfortable. All shelter residents are expected to comply with general standards of modesty.

F. Confidentiality and Privacy

Administrative records should, whenever possible, reflect an individual's self-identified gender. A person's gender identity, transgender or intersex status is confidential and private and must be treated like all other confidential information. Neither district staff nor shelter staff may disclose a client's gender identity, transgender or intersex status to other clients or staff, unless such disclosure is specifically necessary for service provision, or authorized with express permission by the client.² If a client discloses a gender identity different than the one that is recorded in administrative records, neither district staff nor shelter staff should disclose that information without the client's authorization.

² See generally New York State Social Services Law §§ 21(c) and 136, New York State Public Health Law § 18, 18 NYCRR § 357.2.

G. Eligibility for and Provision of Services

Gender identity and gender expression shall not be used to deny services to any individual. TGNCNB clients who are approved for services must be provided with the same range of services available to other similarly-situated clients. Like all shelter residents, TGNCNB clients must be provided with a means to safely store and secure prescription medications including hormones, and to the extent that shelter residents are offered the opportunity to store prescription medications in the operator's custody for safe keeping, the same opportunity must be afforded to TGNCNB clients.

H. Pronoun, Name and Title Use

It is never appropriate to assume someone's gender, their gender pronouns, or how they identify based on their appearance. When referring to an individual, use their name or politely ask which gender pronouns they use. A good way to do this is to share your own name and pronouns first and then ask how the other person would like to be addressed. Gender pronouns can include "he," "she," "they," or any other pronoun requested by the individual. Clients should be referred to using the client's expressed gender pronoun. This includes all verbal or written communications with the client, as well as those communications about or in reference to the client with other staff or clients, and in all reports or other documents relating to the client's case. If district or shelter staff members are unsure of what pronoun to use with a client, they should privately ask that person what pronoun they use. If there is no immediate opportunity to speak with the client, in the interim the client's name should be used to substitute the pronoun (for example: Alex told me that Alex was feeling depressed and would like to participate in the support group), or staff can use a gender-neutral pronoun (e.g. "they"/"them") until they have a chance to confirm the client's expressed gender pronoun. Once a name has been established, always address the individual by that name, in addition to the title (e.g., Ms./Miss/Mrs./Mr.) and pronoun (e.g., he/she, him/her, his/hers, they/theirs) that they use, regardless of their birth sex, whether the individual has undergone a legal name change (except on forms where it may be required to use a person's legal name) or what their gender expression is at the time, and without requiring identification or other forms of "proof" of gender identity.

I. Harassment

Harassment of any kind is prohibited. Discriminatory and prejudicial comments or other behavior that creates a hostile environment must not be tolerated from staff, volunteers, or other clients. If clients, staff, or volunteers are harassing any person, including harassment related to perceived transgender status, staff must intervene and ensure that the harassment stops.

Staff and volunteers are prohibited from refusing to work with clients based on their transgender status, intersex status, gender identity or perceived gender identity and advised that such conduct creates a hostile environment and will result in disciplinary action.

J. Guidance for Dealing with the Concerns of Other Clients

If client's approach either shelter staff or TGNCNB clients with concerns, fears, or objections to the presence of a TGNCNB client, staff should immediately intervene to explain the district's/shelter's nondiscrimination policy.

When approached by clients who are concerned about sharing accommodations with TGNCNB clients, staff should patiently explain that all individuals have a right to access the shelter, that such a right is not based on how they identify, and that all residents are expected to be respectful to one another, including persons who they perceive to be or who identify as transgender, gender nonconforming, or non-binary. Clients need to understand that the shelter is a community where everyone is to be welcomed and respected.

VI. Effective Date

Immediately.

Issued By

Name: Cheryl Contento

Title: Deputy Commissioner

Division/Office: Division of Shelter Oversight and Compliance