



# **HUD Equal Access Rule and Not Separating Families**

Multnomah County  
2022

# Homebase


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Build community capacity to end homelessness and reduce poverty, and to foster thriving, inclusive communities.

*We support communities and agencies in establishing the systems and programs needed to help people who are homeless or at-risk achieve housing stability, improve health and wellness, maximize economic self-sufficiency, and reclaim their dignity.*

# Agenda

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2016 Equal Access Final Rule

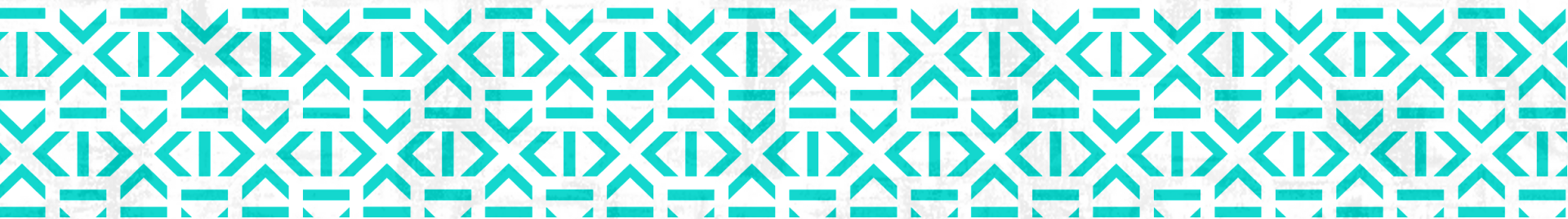
Gender 101

Best Practices for Discussing Gender Identity with Clients

Preventing Family Separation

Questions and Discussion

# 2016 Equal Access Final Rule



# What is the rule?

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Access to shelter, housing, and services is provided to an individual in accordance with the individual's gender identity

- 1 Required for all Community Planning and Development (CPD) Programs
- 2 Individuals are placed in accordance with their gender identity
- 3 No requirements for individuals to “prove” gender identity
- 4 Providers must update policies and procedures to reflect requirements\*

\*Resources available

# Evolution of the Rule

## February 2012

- Sexual orientation & gender identify defined
- Access to housing regardless of actual or perceived sexual orientation, gender identity or marital status
- Prohibited inquiries into sexual orientation or gender identity for eligibility

## February 2015

- Placement decisions based on gender which a person identifies – and not another person's stereotypes
- Consider personal health & safety concerns of transgender & gender non-conforming persons
- Guidance on best practices

## November 2015

- Owners, operators, & managers of shelters & other buildings & providers of services provide equal access to programs, benefits, services & accommodations in accordance with an individual's gender identity
- Placement & accommodation in facilities that are permitted to be single-sex are made in accordance with an individual's gender identity

# Why is Equal Access Important?

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After 2012 Equal Access Rule, HUD found that transgender and gender nonconforming persons continued to experience significant barriers.

- 1** 68% of transgender people reported that none of their IDs had the gender or name they preferred
- 2** 70% of those who stayed in a shelter in 2015 reported some form of mistreatment due to being transgender
- 3** 26% of those who experienced homelessness in 2015 avoided staying in a shelter due to fear of mistreatment
- 4** Those experiencing homelessness are disproportionately LGBT, especially youth.

# Implementation: Self-Identifying Gender

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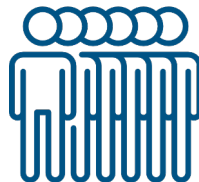
- Actual Gender Identity:  
I am a Man

vs.

- Perceived Gender Identity:  
You seem like a man

May be different than the gender or sex listed on an individual's identity documents and that those documents should not determine a person's gender identity.

The gender with which a person is perceived to identify (as opposed to the gender with which the person actually identifies).





# Sexual Orientation

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The definition was updated from “homosexuality, heterosexuality, or bisexuality” to “emotional or physical attraction to the same and/or opposite sex” to match the definition adopted by the United States Office of Personnel Management in 2015.



# Health and Safety Exception

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HUD removed language from the 2012 rule that stated that under narrow circumstances, a written case-by-case determination could be made on whether an alternative accommodation for a transgender individual would be necessary to ensure health and safety.

# Addressing Privacy Concerns

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1

The new rule states that all placements, including admission to facilities that require shared sleeping or bathing quarters, shall be made based on an individual's gender identity.

2

After admissions, programs may take “nondiscriminatory steps that may be necessary and appropriate” to address privacy concerns raised by residents or occupants.

# Confidentiality

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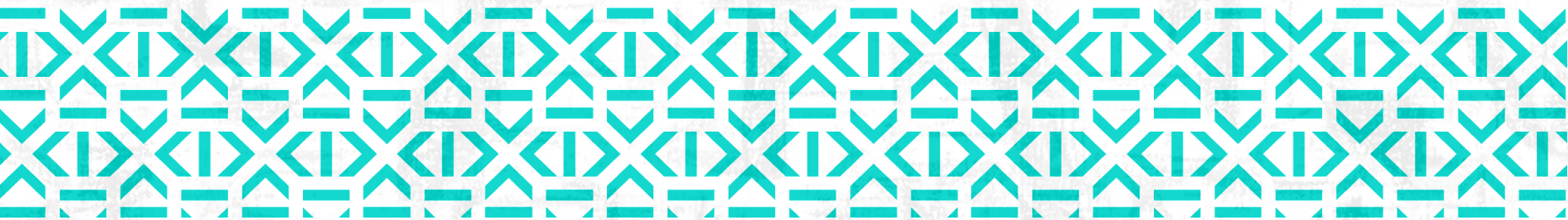


Continuums of Care and projects should consider including sex assigned at birth on their list of confidential information.



Further guidance will be provided by HUD in the future.

# Gender 101



# Definitions

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## **Sex:**

- The classification of a person as male, female or intersex. At birth, infants are assigned a sex, usually based on the appearance of their external anatomy. (This is what is written on the birth certificate.)
- A person's sex, however, is a combination of bodily characteristics including: chromosomes, hormones, internal and external reproductive organs, and secondary sex characteristics.

## **Gender Identity:**

- A person's internal, deeply held sense of being a woman, man, neither of these, both, or another gender. For transgender people, their own internal gender identity does not match the expectations based on the sex they were assigned at birth. Cisgender is a term for people whose gender identity matches the expectations based on the sex they were assigned at birth.
- For some people, their gender identity does not fit neatly into one of those two choices (see non-binary and/or genderqueer below.) Unlike gender expression (see below) gender identity is not visible to others.

# Definitions

## **Gender Expression:**

- How we express our gender identity to the world ~ expressed through a person's name, pronouns, clothing, haircut, behavior, voice, and/or body characteristics. Society identifies these cues as masculine and feminine, although what is considered masculine or feminine changes over time and varies by culture.
- Typically, transgender people seek to align their gender expression with their gender identity, rather than the sex they were assigned at birth, although we can't necessarily know how someone identifies by their gender expression, or how we perceive that expression.

## **Sexual Orientation:**

- Describes a person's enduring physical, romantic, and/or emotional attraction to another person. Gender identity and sexual orientation are not the same. Attraction can be related to various factors, not just gender identity.
- Transgender people may be straight, lesbian, gay, bisexual, or queer. For example, a person who transitions from male to female and is attracted solely to men would typically identify as a straight woman.

# Gender, Sex, and Sexuality Spectrums

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**Sex Assigned at Birth**

Female ← → Male

**Gender Identity**

Woman ← → Man

**Gender Expression**

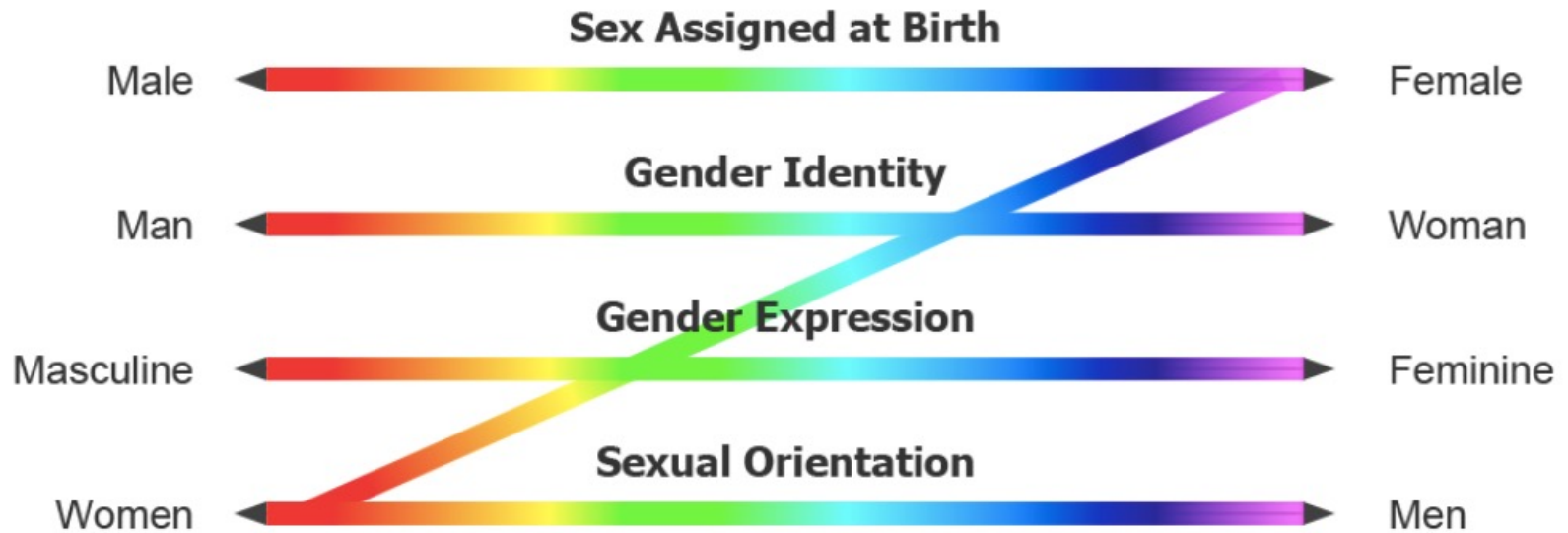
Feminine ← → Masculine

**Sexual Orientation**

Men ← → Women

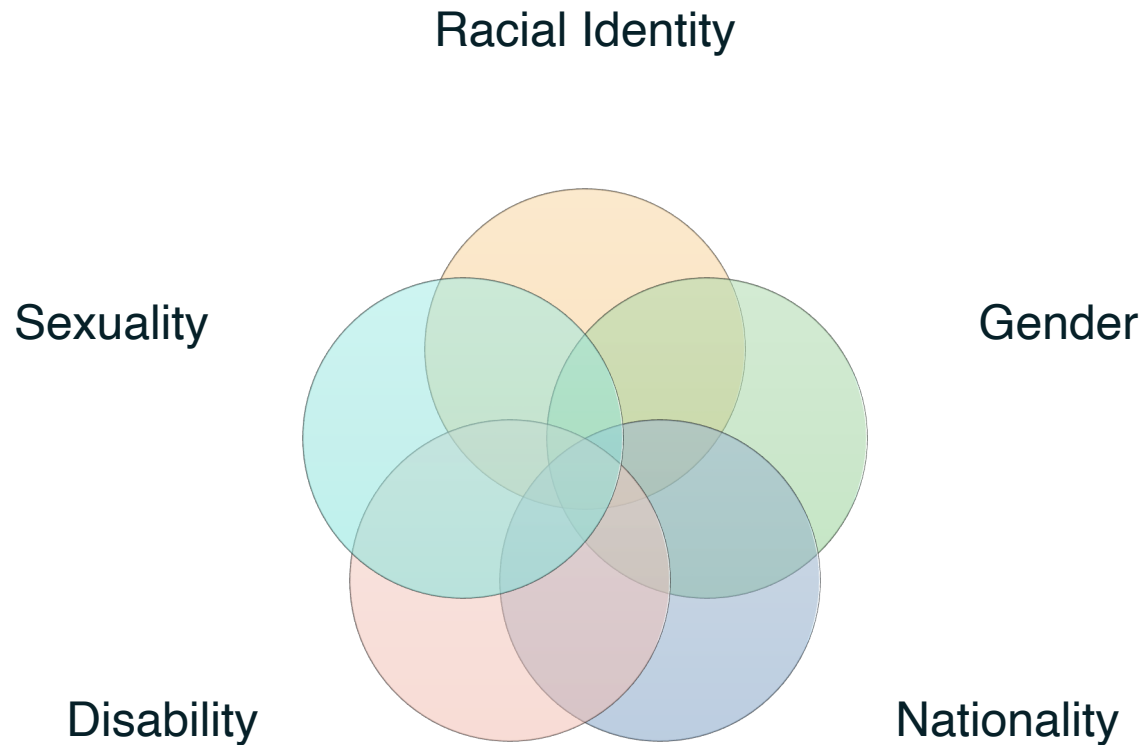


# Gender, Sex, and Sexuality Spectrums

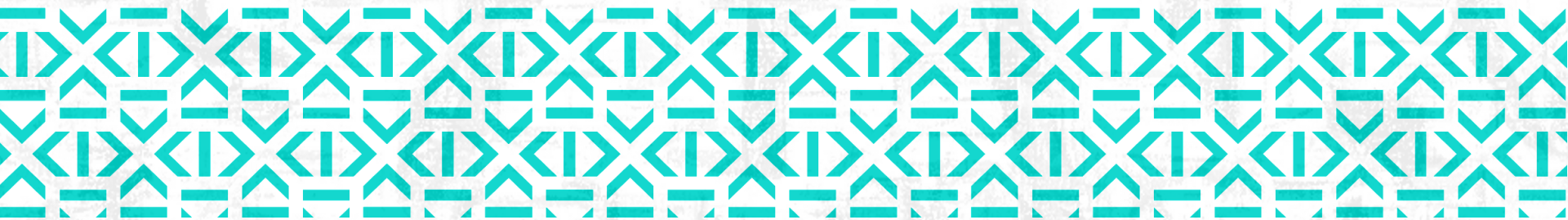


# Intersecting Identities

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# Best Practices for Discussing Gender Identity with Clients



# Best Practices

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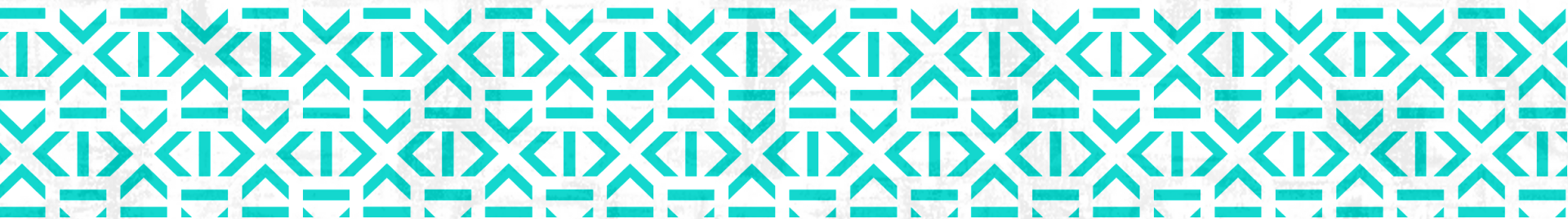
1. Always refer to transgender persons by the name and pronoun that corresponds with their gender identity
  - If you are unsure about a person's gender identity or how they wish to be addressed, ask politely and privately for clarification.
  - Start by offering your own pronouns first.
2. Make it a common practice to include pronouns in intros and email signatures.
3. It is inappropriate to ask transgender people about their medical history.
  - Whether a person has had surgery or not does not determine that person's gender for the purposes of social behavior, service provision, or legal status.

# Best Practices

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4. Assure Confidentiality.
5. Reiterate your organizations commitment to providing a safe and affirming space.
6. Ensure that transgender clients and customers have access to the restroom that matches their gender identity.
  - It's great to have gender neutral restrooms available for anyone who needs additional privacy, but you should not require a transgender person to use them.

# Applying Equal Access



# Equal Access in Outreach, Engagement, & Assessment Means:

**Accepting the name & gender** given by the individual

**Using the preferred pronoun** as indicated by the individual

If ID is required → **Still use the individual's current gender identity** as indicated by the individual, not the ID



# Equal Access in Enrollment Means:

Providing a confidential area to describe services that the client may want to access to ensure the client's confidentiality

**Not** asking about the client's sex assigned at birth during the intake process

If a project services based on gender →

Accepting the client whose gender expression does not fit the stereotypical gender expression

If client is non-binary, discuss the housing options and ask what would be most comfortable for the client.



# Equal Access in Unit/Bed Assignment Means:

Quickly resolving conflicts (e.g., harassment by another client).

Modeling appropriate respectfulness & coaching clients that express verbal & non-verbal disrespect.

Providing confidential space to allow clients to discuss issues related to harassment or other concerns connected to their current gender expression within the project

# Equal Access in Ongoing Service Means:

Recognizing the client's right to access all services for which they are eligible.

Correcting clients' misperceptions that gender expression creates a safety risk.

Ensuring that all clients understand that verbal & physical bullying are not tolerated.

# Changing the Culture

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Expectations should be clear & consistent at every level of the organization:

Written policies & procedures

Staff training

Supervision & management of staff

Communication of expectations to clients

Day-to-day interactions with clients

Implementation of written procedures in response to harassment or safety concerns

# Federal Guidance

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- Equal Access Final Rule:  
<https://www.hudexchange.info/resources/documents/Equal-Access-Final-Rule-2016.pdf>
- Equal Access for Transgender People:  
Supporting Inclusive Housing and Shelters:  
<https://www.hudexchange.info/resources/documents/Equal-Access-for-Transgender-People-Supporting-Inclusive-Housing-and-Shelters.pdf>

# Preventing Family Separation



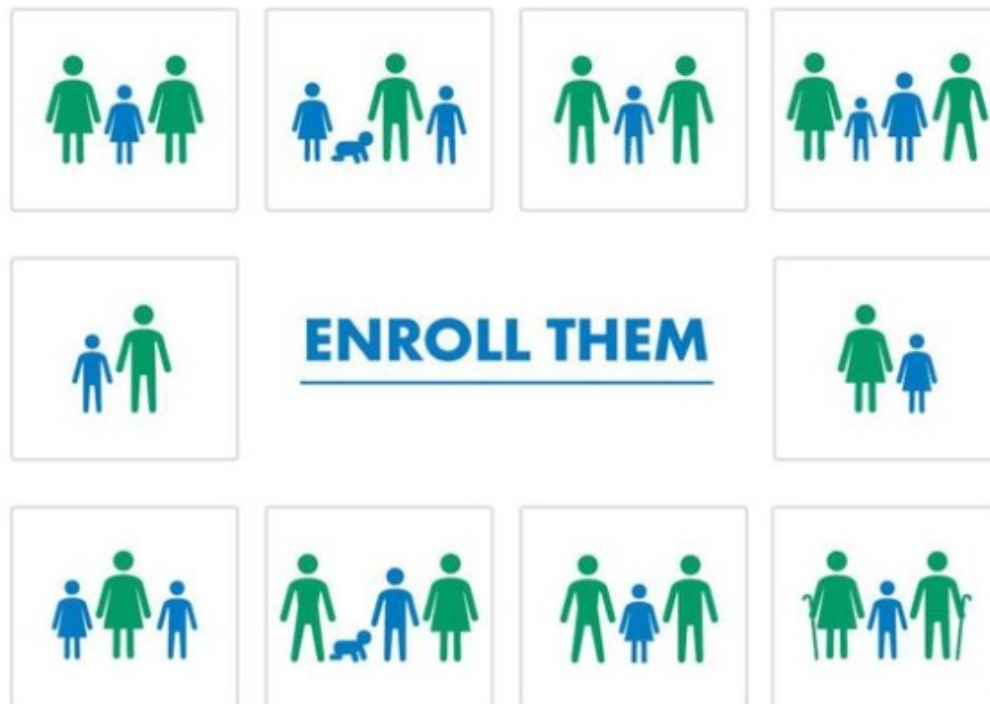
# Defining Family under the Equal Access Rule

**Family** includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or,
2. A group of persons residing together, and such group includes, but is not limited to:
  - A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
  - An elderly family;
  - A near-elderly family;
  - A disabled family;
  - A displaced family; and,
  - The remaining member of a tenant family.

# What does this mean?

- A group of people that present together for assistance and identify themselves as a family, regardless of age or relationship or other factors = a family
- A family must be served together as such, regardless of how they present.
- Providers need to be able to serve every kind of family, regardless of the ages and sexes of the adults and children.
- Involuntarily separating families based on the gender or age of their minor children is a violation of HUD regulations.



# Examples

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A shelter cannot separate teenage boys from their families

A program cannot separate out or deny assistance to adult men that present as a part of the family (e.g., fathers, uncles, the mother's boyfriend, etc.)

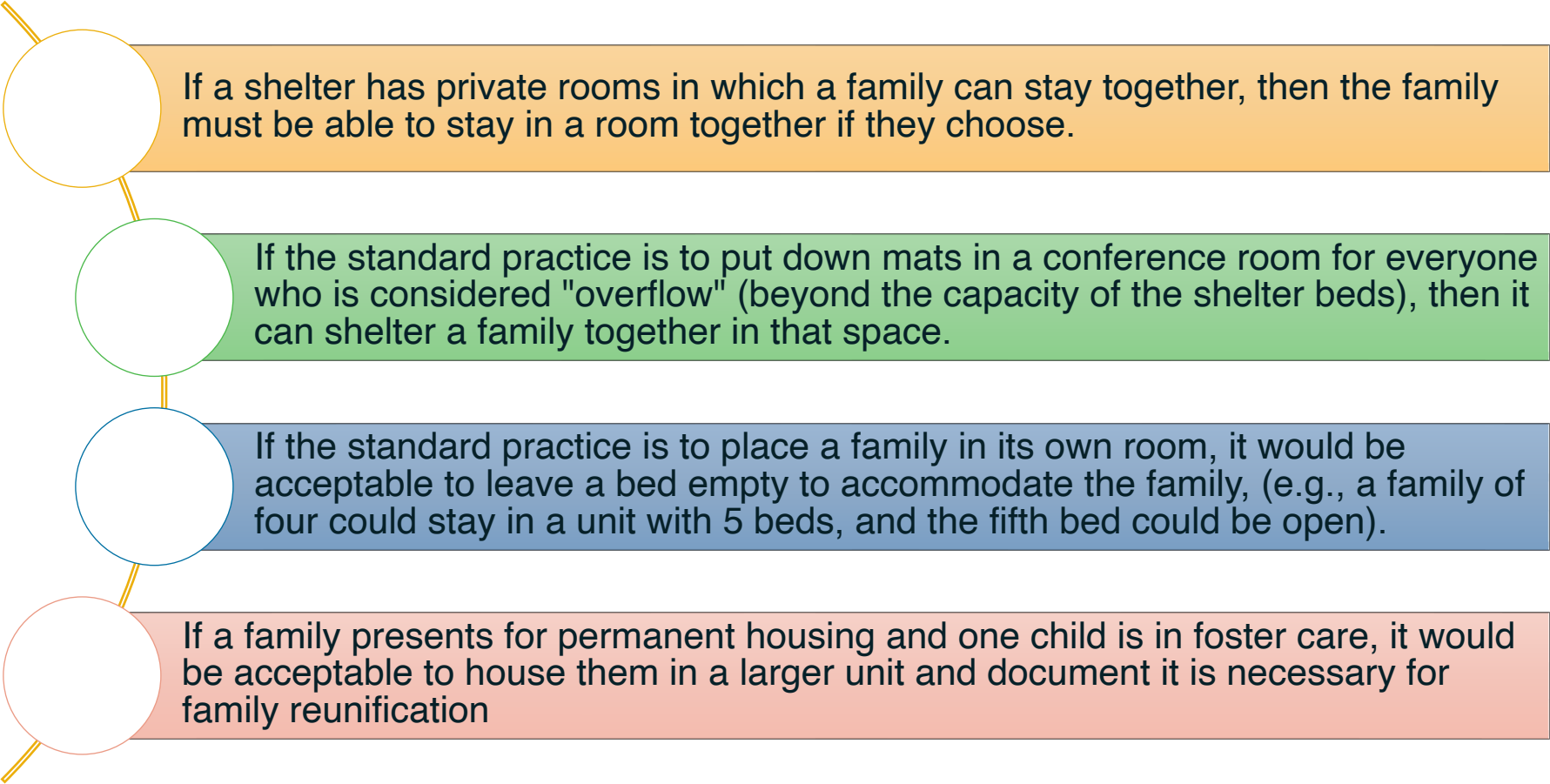
A shelter or housing program may limit assistance to households with children, it may not limit assistance to only women with children.

If two adults present together as a family for housing, you must serve the two adults as a family and may not require proof of marriage and may not limit assistance to couples in a heterosexual relationship.

A housing program cannot reduce the size of a family because one child is in foster care.



# How to Accommodate Families



If a shelter has private rooms in which a family can stay together, then the family must be able to stay in a room together if they choose.

If the standard practice is to put down mats in a conference room for everyone who is considered "overflow" (beyond the capacity of the shelter beds), then it can shelter a family together in that space.

If the standard practice is to place a family in its own room, it would be acceptable to leave a bed empty to accommodate the family, (e.g., a family of four could stay in a unit with 5 beds, and the fifth bed could be open).

If a family presents for permanent housing and one child is in foster care, it would be acceptable to house them in a larger unit and document it is necessary for family reunification

# Questions and Discussion

