
45 C.F.R. § 1370.5

What additional non-discrimination requirements apply to these programs?

(a) No person shall on the ground of actual or perceived sex, including gender identity, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part through FVPSA.

(1) FVPSA grantees and subgrantees must provide comparable services to victims regardless of actual or perceived sex, including gender identity. This includes not only providing access to services for all victims, including male victims, of family, domestic, and dating violence regardless of actual or perceived sex, including gender identity, but also making sure not to limit services for victims with adolescent children (under the age of 18) on the basis of the actual or perceived sex, including gender identity, of the children. Victims and their minor children must be sheltered or housed together, regardless of actual or perceived sex, including gender identity, unless requested otherwise or unless the factors or considerations identified in § 1370.5(a)(2) require an exception to this general rule.

(2) No such program or activity is required to include an individual in such program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or a programmatic factor reasonably necessary to the essential operation of that particular program or activity. If sex segregation or sex-specific programming is essential to the normal or safe operation of the program, nothing in this paragraph shall prevent any such program or activity from consideration of an individual's sex. In such circumstances, grantees and subgrantees may meet the requirements of this paragraph by providing comparable services to individuals who cannot be provided with the sex-segregated or sex-specific programming, including access to a comparable length of stay, supportive services, and transportation as needed to access services. If a grantee or subgrantee determines that sex-segregated or sex-specific programming is essential for the normal or safe operation of the program, it must support its justification with an assessment of the facts and circumstances surrounding the specific program, including an analysis of factors discussed in paragraph (a)(3) of this section, and take into account established field-based best practices and research findings, as applicable. The justification cannot rely on unsupported assumptions or overly-broad sex-based generalizations. An individual must be treated consistent with their gender identity in accordance with this section.

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