

## It's the Law

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In addition to the mission of most senior service organizations to serve all seniors, organizations also have a legal obligation to treat LGBT seniors equally and with respect. While federal law does not yet prohibit discrimination based on sexual orientation, 20 states and more than 140 cities do have such laws on the books. Thirteen states also prohibit discrimination based on gender identity. In California, both the Fair Employment & Housing Act and the Unruh Civil Rights Act protect against discrimination based on sexual orientation and gender identity in housing, employment and public accommodations. ("Public accommodations" protects business customers as well as clients of nonprofit organizations.)

The City and County of San Francisco offer further protections through several municipal codes and ordinances. Both the San Francisco Administrative Code and the San Francisco Police Code explicitly forbid discrimination on the basis of sexual orientation, gender identity, domestic or marital status, or HIV status in employment, housing or public accommodations. City contractors, including most senior service providers, also cannot discriminate against their employees or members of the public based on these distinctions. If they do, they can face sanctions such as fines and cancellation of contracts.

Also in California, two laws specifically address the needs of LGBT seniors in services and housing:

**Older Californians Equality and Protection Act (2006)** This law requires the California Department of Aging (CDA) and Area Agencies on Aging (AAA) to ensure that programs and services for elders account for the needs of LGBT Californians. The law requires the CDA to:

- Include the needs of LGBT seniors in their needs-assessment and area plans.
- Provide technical assistance to local organizations for the training of staff, contractors and volunteers regarding the unique needs of LGBT seniors.
- Ensure that programs and services provided through the Older Americans Act and Older Californians Act in each planning and service area are available to all older adults regardless of sexual orientation, gender identity or any other basis set forth in the Fair Employment and Housing Act, California's most comprehensive nondiscrimination law.

**LGBT Training for Health Professionals in Senior-Care Facilities**

**(2008)** This law requires that all registered nurses (RNs), licensed vocational nurses (LVNs), certified nurse assistants (CNAs), and physicians and surgeons working in 24-hour senior care facilities participate in a training program that focuses on preventing and eliminating discrimination based on sexual orientation and gender identity.

**IMPORTANT  
POINTS ABOUT  
LGBT RIGHTS**

- Everyone has the right to be out about their sexual orientation and their gender identity. LGBT people have the same rights as heterosexual people to discuss their partners or spouses, and to display photographs of the people who are important in their lives. Likewise, they may choose to identify as lesbian, gay, bisexual or transgender, or to discuss homophobia or transphobia they have suffered. LGBT people also have the right to keep their sexual orientation or gender identity private without fear of being outed by someone else.
- As participants in activities or visitors to a residential facility, family members or friends also have the right to be out about having an LGBT family member or friend in their lives.
- Management and staff must protect a person's right to be out and must not cooperate with homophobia and transphobia. For example, if one of the residents in a senior facility asks an LGBT senior not to refer to his or her sexual orientation or gender identity, staff must admonish that resident for making an inappropriate request and explain why LGBT residents have the right to be out.
- Employers and organizations must prevent and take action against anti-LGBT epithets, slurs or hate speech. Employees, volunteers and clients must understand that such language is impermissible. Anti-LGBT religious materials and speech are forms of harassment, especially when they are targeted at someone who indicates that he or she is not interested in such materials.
- A same-sex couple must be treated the same as an opposite-sex couple. Family discounts, attending functions together, sharing a room or a bed, and displaying affection in common areas must be equally allowed for all couples. In California and other jurisdictions with domestic partner, civil union or marriage laws, same-sex couples who are officially registered as

such have full equality with married opposite-sex couples. In jurisdictions lacking these legal protections, attention must be paid to moral and ethical mandates, and to the possibility of liability for discrimination based on sex, gender or sexual orientation.

- Equal attention must be paid to LGBT-specific events and celebrations. For example, if holiday parties and historical displays are common, then LGBT Pride Day celebrations should be included whether or not an openly LGBT person is present.

**IMPORTANT  
 POINTS ABOUT  
 GENDER  
 IDENTITY AND  
 THE LAW**

The category *gender identity* protects people from discrimination based on their self-defined gender identity, as well as their gender presentation, regardless of whether that identity or presentation matches their anatomy.

- Transgender people have the right to be referred to by pronouns and salutations that match their self-defined gender identity. For example, a male-to-female (MTF) transgender person should be referred to as a woman, and addressed as “Ms.” or “ma’am.” The pronouns *she*, *her* and *hers* should be used when talking about this person. A female-to-male (FTM) transgender person should be referred to as a man, and addressed as “Mr.” or “sir.” The pronouns *he*, *him* and *his* should be used when talking about this person.
- Transgender people have the right to use sex-segregated facilities according to their self-defined gender identity. For example, male-to-female transgender people may use the women’s restroom, and female-to-male transgender people may use the men’s restroom.
- Transgender people have the right to conform to gender-specific dress codes according to their self-defined gender identity, not their perceived gender. Female-to-male transgender people may wear suits and male-to-female transgender people may wear dresses in cases where a dress code is required.
- Transgender people have the same right as all people to the privacy of their bodies. It is inappropriate to ask uninvited questions of transgender people about their anatomy, whether they take hormones, or whether they have had or intend to have sexual-realignment surgery.