



ADMINISTRATION FOR
CHILDREN & FAMILIES

Office of Refugee Resettlement | 330 C Street, S.W., Washington, DC 20201
www.acf.hhs.gov/programs/orr

Serving LGBTQI+ ORR-Eligible Populations

Policy Letter 22-14

July 28, 2022

I. Introduction

ORR considers equity for all expressions of gender, gender identities, and sexual orientations a critical aspect of benefit and service provision for ORR-eligible populations. This ORR Policy Letter (PL) provides guidance for ORR grantees¹ to serve LGBTQI+² ORR-eligible populations satisfactorily, combat discrimination against them, and reduce barriers to their successful attainment of self-sufficiency and community integration within the United States.

This PL builds upon the foundation of and supersedes ORR State Letter 15-06, *LGBT Resources and Information* (issued on June 18, 2015), which interprets additional services under 45 CFR § 400.155(h) to include services aimed at reducing barriers encountered by ORR LGBT populations, and ORR State Letter 14-03, *Guidance for FY-14 ORR-1 Same-Sex Couple Benefits* (issued on May 29, 2014), which provided guidance to treat same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible.

II. Presidential Directives Aimed to Combat Discrimination

The United States Refugee Act of 1980 (Public Law 96-212) prohibits discrimination on the basis of sex in the provision of assistance or services. The Biden Administration's [Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#) (published January 20, 2021), instructs federal agencies to apply the interpretation of gender discrimination to include sexual orientation and gender identity, where legally supportable, to "any other statute or regulation that prohibits sex discrimination." Thus, ORR interprets the Refugee Act to prohibit discrimination on the basis of sexual orientation or gender identity for beneficiaries.

The Biden Administration has also issued additional Executive Orders³ and a Memorandum⁴ establishing official policy to prevent and combat discrimination against LGBTQI+ individuals and to fully enforce civil

¹ Within this PL, ORR uses the term "grantees" to encompass all ORR refugee program recipients; the term "state" is used in its geographic sense.

² Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex, with the "+" representing those who are part of the community, but for whom LGBTQI does not accurately capture or reflect their identity.

³ [Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#) (January 20, 2021); [Executive Order 14020, Establishment of the White House Gender Policy Council](#) (March 8, 2021)

⁴ The [Memorandum on Advancing the Human Rights of Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Persons Around the World](#) calls for strengthening existing efforts to combat the criminalization by foreign governments

rights laws to prevent discrimination on the basis of gender identity or sexual orientation. Efforts to implement these policies at home and abroad include combating systemic biases and discrimination, increasing economic security and opportunity, supporting gender equity in education, increasing access to comprehensive health care, and combating gender-based violence.

III. ORR Measures to Provide Equitable Access and Service to LGBTQI+ ORR-Eligible Individuals

A. General Measures

ORR grantees must recognize the legal and civil rights of LGBTQI+ ORR-eligible individuals when determining access to and providing services.

ORR recommends that grantees also implement the following measures, seeking resources and technical assistance (addressed in Section IV of this PL) as necessary:

1. Enroll ORR-eligible individuals into any ORR-funded projects that address needs related to that individual's status as LGBTQI+, as necessary and possible.
2. Enroll ORR-eligible individuals into ORR-funded projects using their preferred gender and provide non-binary individuals alternatives from strict male/female designation, as possible.
 - a. Note: As ORR renews or revises each of its grantee report forms, it is replacing the existing data fields titled "Sex" with "Gender" and providing "male," "female," and "unspecified or another gender" options.
3. Provide a gender-affirming environment to ORR-eligible individuals.
4. Ensure appropriate service delivery methods for LGBTQI+ ORR-eligible individuals, as necessary.
5. Facilitate the creation of a service environment in which an ORR-eligible individual may feel safe to identify as LGBTQI+, confidentially or otherwise.
6. Request waivers to support appropriate service delivery for LGBTQI+ ORR-eligible individuals, as necessary.

B. Program-specific Measures

ORR intends for LGBTQI+ ORR-eligible individuals to receive equal access to, and benefits and services provided by, *all* ORR-funded programs.

The following sections address the provision of benefits and services to LGBTQI+ ORR-eligible individuals within specific ORR-funded programs.

1. Refugee Cash Assistance and Refugee Medical Assistance

of LGBTQI+ people and expanding efforts to combat discrimination, homophobia, transphobia, and intolerance on the basis of LGBTQI+ status or conduct; protecting vulnerable LGBTQI+ refugees and asylum seekers; helping ensure the federal government has a swift and meaningful response to serious incidents that threaten the human rights of LGBTQI+ persons abroad; and building coalitions with like-minded nations to counter discrimination against LGBTQI+ people around the world.

ORR grantees must recognize same-sex marriages when determining Refugee Cash Assistance (RCA) and Refugee Medical Assistance (RMA) eligibility.⁵ ORR grantees are encouraged to recognize informal marriages⁶ recognized by DHS through the approval of Form I-589, Form I-590, or Form I-730.⁷

2. Refugee Support Services

Refugee Support Services (RSS) supports employability services and other services that address barriers to employment, such as social adjustment, interpretation and translation, day care for children, and citizenship and naturalization.

Allowable social services are delineated at 45 CFR § 400.154 and § 400.155. The regulations at 45 CFR § 400.155(h) provide that RSS funding can be used for any additional services aimed at strengthening and supporting the ability of a refugee individual, family, or refugee community to achieve and maintain economic self-sufficiency, family stability, or community integration. Additional services must be demonstrated as effective and must not be available from any other funding source. Services provided under 45 CFR § 400.155 must be consistent with the goals and priorities of the refugee program.

LGBTQI+ ORR-eligible populations have unique needs that impact their ability to achieve and maintain economic self-sufficiency and community integration. Serving LGBTQI+ ORR-eligible populations in an appropriate manner that promotes economic self-sufficiency is consistent with the goals and priorities of the refugee program. Therefore, ORR interprets the additional services described at 45 CFR § 400.155(h) to include services aimed at reducing the barriers encountered by LGBTQI+ ORR-eligible populations. A grantee must submit a description of such services to the ORR Director for approval, as per 45 CFR § 400.155(h).

Difficulty identifying affordable and appropriate housing can be a barrier to LGBTQI+ ORR-eligible populations achieving economic and social self-sufficiency. In particular, the lack of adequate housing options can create additional barriers to LGBTQI+ ORR-eligible populations finding and retaining employment. Therefore, a grantee may consider using RSS funds to provide transitional housing assistance for LGBTQI+ ORR-eligible populations as an additional service under 45 CFR § 400.155(h). The grantee must submit a description of such services to the ORR Director for approval, as per 45 CFR § 400.155(h).

The option to use RSS funds to provide transitional housing assistance for LGBTQI+ ORR-eligible populations applies only if the plan for this purpose does not substantially result in an absence of funding to provide other crucial employability and support services; directly improves the likelihood of client employment and self-sufficiency; does not supplant other available funding that could be used for the same purpose; and is dispensed according to stringent criteria related to need and time frame for assistance. Grantees should be cognizant of implications for their clients' eligibility

⁵ Per Supreme Court's 2015 "[Obergefell v. Hodges](#)" decision, which requires a "State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-State." Grantees should take a marriage certificate at face value.

⁶ "Informal marriage" is a term-of-art used by DHS in their adjudication of certain Refugee and Asylee applications. DHS typically recognizes informal marriages as circumstances where individuals are unable to have their marriage legally recognized in the place of celebration due to persecution, circumstances beyond their control, or restrictive practices in their country.

⁷ Through the approval of Form I-589, I-590, or I-730, DHS recognizes a familial relationship in an informal marriage. See [DHS Refugee Asylum and International Operations Memorandum, Revised Guidance on Informal \("Camp"\) Marriages](#), (February 14, 2022).

for other public assistance programs if transitional or emergency housing assistance counts as income.

After consultation with their Division of Refugee Assistance Regional Representative/ Analyst or contact within the Division of Refugee Health, as applicable, grantees may also use RSS set-aside funding to support LGBTQI+ ORR-eligible populations in manners relevant to and allowable by the set-aside in question. Activities may include capacity-building initiatives, such as recruitment of LGBTQI+ volunteers or staff member training, and do not need to be related to a specific enrollee.

3. Preferred Communities

ORR's Preferred Communities (PC) program provides targeted, strengths-based case management for particularly vulnerable populations. The program recognizes the specialized needs of LGBTQI+ ORR-eligible populations and the additional support they may need. Several PC grantees have developed capacity to support services for self-identifying LGBTQI+ clients, and ORR will work with all PC providers to ensure capacity and enhanced services for LGBTQI+ ORR-eligible populations.

4. Matching Grant

ORR's Matching Grant Program Guidelines include waiver language allowing grantees to transfer clients from one resettlement agency to another (within or across states) if the agency is unable to meet the special needs of the client. The waiver specifically includes language about LGBTQI+ populations.

5. Direct Services for Survivors of Torture

ORR's Direct Services for Survivors of Torture (DS SOT) program provides interventions for those experiencing the psychosocial and health repercussions of torture, violence, and traumatic stress. This includes women and lesbian, gay, bisexual, transgender, and queer (LGBTQ) survivors, who may experience systemic bias and sexual violence specifically based on their gender and sexual identities. Recognizing the value of individuals with lived experiences, the DS SOT program integrates survivors within organizational and programmatic structures, establishing advisory boards comprised of former clients and community members and encouraging, in particular, the participation of female and LGBTQ survivors.

IV. Resources and Technical Assistance

- ORR's Refugee Program Technical Assistance provider, [Switchboard](#), provides resources on serving all refugee populations. Their June 2022 publication, "[What works to support LGBTQ refugees?](#)", reviews a number of published studies and resources.
- [The Substance Abuse and Mental Health Services Administration \(SAMHSA\)](#) provides resources on the LGBT population, including national survey reports, agency and federal initiatives, and related behavioral health resources. SAMHSA also houses links to a wide variety of resources developed with SAMHSA funding or other federal sources. One among many such resources is the [National Child Traumatic Stress Network resource](#) on gender-affirming care and tips for showing support and acceptance for transgender, gender diverse, and intersex youth.
- [U.S. Department of Health and Human Services Office of Civil Rights](#) enforces the laws on discrimination on the basis of sex, as they apply to grantees of HHS federal financial assistance.

Please direct any questions about this PL to the Refugee Policy Unit at RefugeePolicy@acf.hhs.gov.

Sincerely,

Andrea Chapman
Acting Director
Office of Refugee Resettlement