

Monitoring for Accessibility: Ensuring Accessible Services for LGBTQ+ Survivors



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National LGBTQ Institute on Intimate Partner Violence

A PROJECT OF THE LOS ANGELES LGBT CENTER

In partnership with the National Coalition of Anti-Violence Programs and In Our Own Voices, Inc.

Introductions

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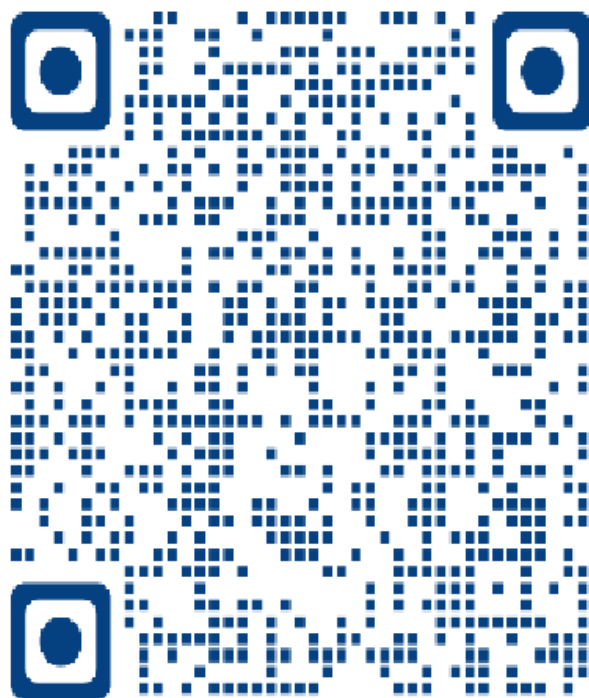
Land Acknowledgment

(Aidan Semmens, 2023)

Today's Goals

- To understand FVPSA statutory and regulatory requirements for non-discrimination LGBTQ+ survivors
- To understand the components of programmatic accessibility for LGBTQ+ survivors
- To understand how to monitor for LGBTQ+ accessibility





[Lgbtqipvinstitute.org/on-going-learning-center](https://lgbtqipvinstitute.org/on-going-learning-center)



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Who is Responsible for Monitoring?

- The task of monitoring subrecipients is assigned to the State (i.e. FVPSA State Administrators)
- The FVPSA statute and regulations also assigns the State and DV Coalition to work together
- The FVPSA Notice of Funding Opportunity (NOFO) for States requests detailed information related to monitoring in multiple places



Purpose of Monitoring

- To ensure programmatic and financial compliance with FVPSA and other Federal requirements
- To ensure subrecipients are good stewards of Federal funds
- To ensure subrecipients are making progress on the work outlined in their applications
- To ensure survivors are being provided welcoming, accessible, survivor-centered, trauma informed services



Programmatic Monitoring Elements

- Confidentiality
- Ensuring No Income Eligibility Restrictions
- Language Access
- Match
- No Fees for Service
- No Funds Directly to Victims
- Non-discrimination
- Reporting
- Subgrantee Allowable Uses of Funds
- Trauma Informed Services
- Voluntary Services



Monitoring for Accessibility

What do we mean by accessibility?

- Online dictionaries define accessibility as the ability to be easy to:
 - Approach, reach, enter, deal with, speak with, use, understand, obtain, appreciate, use, or be seen
- Under FVPSA this includes services that are:
 - Low/No barrier
 - Open to ALL survivors
 - Intentionally welcoming and inclusive
 - Reflective of the communities and persons served
 - An environment that is safe from physical and emotional harm



Monitoring for Accessibility

- Effective Communication
- Effective communication for people with disabilities
 - Language Access
 - Ensuring No Income Eligibility Restrictions
- No Fees for Service
- Non-discrimination
- Trauma Informed Services
- Voluntary Services



Monitoring for Non-Discrimination

- Actual or perceived sex or gender identity
- Actual or perceived sexual orientation
- Age
- Disability
- Immigration Status
- Race, Color, or National Origin
- Religion



Effective Monitoring Is:

- Knowing and understanding FVPSA & applicable Federal statutory and regulatory requirements
- Knowing and understanding that programs serve survivors with intersecting identities who may have experienced multiple, complex, intersecting traumas
- Committing to overcoming our own conscious and unconscious biases that impact our monitoring work
- Collaborating with our partners to ensure programs are providing accessible and intentional services for ALL survivors



Anti-LGBTQ Legislation

- Over 600+ pieces of anti-LGBTQ legislation have been introduced in 2023
- Anti-trans legislation attacking domestic violence and sexual assault service providers



What do the FVPSA regulations say?

[45 CFR §1370.5\(a\):](#)

- FVPSA grantees must serve survivors of all genders
- Even if the service the program is providing is funded under another grant, the grantee must not discriminate if they receive *any* FVPSA funds
 - i.e. the non-discrimination policies apply to the ***entirety of the organization***, not just the FVPSA funded portion



Implicit Messages

- Accessible bathrooms
- Staff language
- Inclusive written materials
- Social media and external messaging
- Intake forms



Cultivating a Welcome Environment

- Set expectations during shelter orientation
- Display visual cues
- Address bias or discrimination when it comes up



The Intake Process

- The first point of contact
- The importance of language:
 - Language is the way we make sense of the world, ourselves, and our relationships
 - For LGBTQ+ survivors, language and identity labels can be a core way of ensuring that they feel seen and understood



Intakes and Data Collection

- Demonstrate cultural responsiveness
- Include sexual orientation, gender identity, and pronouns
- Include multiple choice and fill in the blank
- Analyze data to identify barriers, obstacles, and accessibility
- Are there conversations you can have with the program about limitations of grant reporting that they are asking you to address?



A rainbow flag with horizontal stripes of red, orange, yellow, green, blue, and purple, waving in the wind against a light blue sky. The flag is the background for the text.

What are some open ended questions that you ask during monitoring that support the work done with LGBTQ+ communities?

Monitoring

- What do the organization's policies say?
 - Do the listed procedures match?
 - Are there open ended questions you can ask staff to discern if their practices match?
 - Do board minutes reflect approval of the policies?
- What do survivor facing and public facing materials say?
 - Brochures, websites, welcome packets, handouts, etc.
- What about the organization's name?
- What do their PPR statistics reflect?
 - Who is being served? Who is not being served?
- If the organization collects survivor feedback, what have survivors shared about access for all genders?
 - Note: survivor feedback should be anonymous and must be voluntary!



What do the FVPSA regulations say?

[45 CFR §1370.5\(a\)\(1\):](#)

- FVPSA grantees must provide comparable services to survivors of all genders
- What do we mean by comparable?
 - The same level of service in an alternative space (ex. a hotel) as if the survivor was staying in shelter
 - Length of stay
 - Access to advocates
 - Access to transportation
 - Access to services
 - Access to meals, etc.



What do the FVPSA regulations say?

[45 CFR §1370.5\(a\)\(1\)](#) (continued):

- FVPSA grantees must not limit services for survivors with children under 18, regardless of the child's gender
- FVPSA grantees cannot have a policy limiting shelter to survivors with boys under a certain age
- Survivors and their children must be sheltered together
 - Unless the survivor requests otherwise
- No other exceptions unless it meets the standards defined in the next subsection, (a)(2)



Monitoring

- Does the organization's submitted budget reflect inclusion of costs related to comparable services?
- Do financials reflect comparable services for survivors housed in different locations?
 - Ex. Are you noticing a pattern of shorter hotel stays?
 - Why is that?
- What do the organization's policies say about when alternate accommodations are used and what services are provided?
 - Do the listed procedures match?
 - Are there open ended questions you can ask staff to discern if their practices match?
- What do survivor facing and public facing materials say?
 - Brochures, website, welcome packets, handouts, etc.



What do the FVPSA regulations say?

[45 CFR § 1370.5\(a\)\(2\):](#)

If sex specific programming is necessary to the essential operation of a grantee program or a particular activity, the grantee must have written justification including:

1. An assessment of the fact and circumstances surrounding the specific program
2. The grantee must include an analysis of the factors discussed in 45 CFR 1370.5 § (a)(3)
3. The grantee must consider established, field-based best practices and research findings
4. This means the State must be familiar with this work
5. The justification cannot be based on broad generalizations, for example:
 - “Men are always the batterer”
 - “16 year old boys look like men”
 - “Survivors are scared of men”



What do the FVPSA regulations say?

[45 CFR § 1370.5\(a\)\(2\)](#) (continued):

If a program says that sex specific programming is necessary to the essential operation of their program or a particular activity, they must provide comparable services including:

- Length of stay
- Access to supportive services
- Transportation as needed to access services
 - The State should ensure they are looking for associated costs when reviewing their budget
- Programs must treat an individual consistent with the individual's gender identity
 - If a grantee houses female survivors in the shelter, and male survivors in a hotel, they must house any survivor who identifies as female in the shelter



What do the FVPSA regulations say?

[45 CFR § 1370.5\(a\)\(3\):](#)

As discussed on the previous slide, a program must have written documentation describing the justification for having sex-segregated and/or sex-specific programming. Factors to consider include, but are not limited to:

1. The type of service
2. The “Pros” for all survivors of not having sex-segregated and/or sex-specific programming
3. The “Cons” for all survivors of not having sex-segregated and/or sex-specific programming
4. Literature that supports the reasons why their type of sex-segregated and/or sex-specific programming is effective
5. Examples of other similar grantees that effectively provide similar programming in a non sex-segregated and/or sex-specific manner
6. Reasons to provide sex-segregated and/or sex-specific programming can’t be for the grantee/staff convenience or based on a trivial matter
 - “There is only one bathroom”



Monitoring

- Does the program have documented justification that meets the criteria?
- Has the program's board reviewed and approved the justification?
- Do financials reflect comparable services for survivors housed in different locations?
 - Ex. Are you noticing a pattern of shorter hotel stays?
 - Why is that?
- Does the organization's submitted budget reflect inclusion of costs related to comparable services?
- Does the organization routinely review/update their justification to ensure sex-segregated services are still necessary?
- If the organization collects survivor feedback, what have survivors shared about sex-segregated services?
 - Note, survivor feedback should be anonymous and must be voluntary!



Support Groups

- LGBTQ+ support groups OR non-gendered, LGBTQ+ competent, support groups
- Self-selection into support groups
- Referrals to local LGBTQ+ identity specific resources



What do the FVPSA Regulations say?

45 CFR § 1370.5(a)(4):

- A grantee must serve ALL survivors
- A grantee must provide equal access to transgender and gender non-conforming survivors
- Services provided must meet the individual's needs and be provided based on the individual's gender identity
- For grantees who provide sex-segregated or sex-specific programming, transgender and gender non-conforming survivors must be served according to their gender identity
- For the purposes of providing a service, a grantee may ask a survivor which group of services they wish to join



What do the FVPSA regulations say?

[45 CFR § 1370.5\(a\)\(4\)](#) (continued)

- A grantee cannot ask questions about a survivor’s anatomy, medical history, or demand documentation “proving” their gender identity
- A grantee must take seriously requests from the survivor for alternative or additional accommodations for purposes of health, privacy, or safety
 - Ex. A survivor was assigned female at birth, but now identifies as male. However, the survivor asks to be sheltered according to their sex assigned at birth (female)
- A grantee may not assign or reassign a transgender or gender non-conforming survivor based on complaints of other survivors when the reason is that the other survivors do not like that the survivor is transgender or gender non-conforming



Shelter Access

- LGBTQ+ survivors should have the same level of on-site access to advocates
- Domestic violence shelter space is non-gendered **OR** has multiple options



Utilizing Physical Space

- Private studio spaces
- Communal or dorm style
 - Privacy screens or barriers
 - Separate shelter spaces for men, women, LGBTQ+ survivors
- Hoteling separately



Monitoring

- How are you ensuring that survivors are not being “screened out”?
 - Does the State have a grievance policy/process for complaints? Do survivors know how to reach the State?
 - What have you been hearing from partners and the community?
- Are staff receiving training on how to work with LGBTQ+ survivors?
- What do the physical spaces look like? What are the hoteling options/procedures?
- What do organization’s policies say? How are we ensuring survivors are “screened in” and able to communicate their choices and receive services accordingly?
 - Do listed procedures match?
 - Are there open ended questions you can ask staff to discern if practices match?
 - Do board minutes reflect approval of the policies?
- What do survivor facing and public facing materials say?
 - Brochures, websites, welcome packets, handouts, etc.
- If the organization collects survivor feedback, what have survivors shared about their experiences?
 - Note, survivor feedback should be anonymous and must be voluntary!



What do the FVPSA regulations say?

- [45 CFR § 1370.5\(b\)](#)
 - Grantees must serve all survivors equally regardless of religion reasonable accommodations may be necessary
- [45 CFR § 1370.5\(c\)](#)
 - Grantees must serve all lesbian, gay, bi-sexual, transgender, queer, and two-spirit survivors equally and in an inclusive manner
- [45 CFR § 1370.5\(f\)](#)
 - ALL individual survivors' rights provided under other applicable laws still apply
- [45 CFR § 1370.5\(g\)](#)
 - HHS will enforce these provisions consistent with applicable Civil Rights Laws



Addressing Survivor Concerns

- Reiterate that everyone deserves to be safe
- Offer alternate accommodations (ex. hotel) to the survivor expressing the concern
- Ensure alternate services are provided in a comparable manner
- Ensure there is safety for ALL survivors



Remember

[45 CFR § 1370.10\(b\)\(10\)](#) :

- “In general,...[A] grantee/subgrantee must meet the highest standard for providing programmatic accessibility...”
- “...These provisions are not intended to deny a shelter the ability to manage its services and secure the safety of all shelter residents should, for example, a client become violent or abusive to other clients.”



Monitoring

Does the program have clear policies/procedures to ensure all survivors are provided access to services that:

- Are welcoming
- Are truly equitable
- Allow ALL survivors the ability to be and feel safe
- Offer alternate options that are comparable
- Allow options for the survivor to decide how they want to receive services
- Does not exclude or make the survivor feel unwelcome
- Address Safety concerns



You are not in this alone!

- Reading a policy you aren't sure about?
- Hearing a service description you aren't sure meets the criteria?
- Noticing a lack of service provision in the PPR?
- Seeing a troubling trend in survivor feedback?

Administrators can seek help from many partners!

- Your State DV and Tribal Coalitions
- Your statewide and local LGBTQ+ organizations
- Your FVPSA TA Providers (NNEDV/CBC, LGBTQ Institute on Intimate Partner Violence, & other DVRN partners)
- Your FVPSA Project Officer



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**QUESTIONS &
DISCUSSION**

Contact Information



CBC

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- emails entire team

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Relevant FVPSA References: Statute, Regulations, Notice of Funding Opportunity (NOFO)



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Monitoring assigned to States

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards at [45 CFR part 75](#)
 - [45 CFR 75.352 \(b\) through \(h\)](#)
- ACF Mandatory Grant Terms and Conditions
 - Terms [\(17\) through \(23\)](#)
- [FVPSA State Notice of Funding Opportunity \(NOFO\)](#)
 - *Section IV. Application and Submission Information/The Project Description/C. Distribution of FVPSA Funding*



Monitoring assigned to States & Coalitions jointly:

- FVPSA Statute
 - [42 U.S.C. § 10407\(a\)\(2\)\(D\)](#)
 - Also see complementary Coalition requirements at:
 - [42 U.S.C. § 10411 \(d\)\(2\)](#)



Monitoring assigned to States & Coalitions jointly (continued):

- FVPSA Regulations
 - [45 CFR § 1370.10\(a\)](#)
 - [45 CFR § 1370.10\(b\)\(6\)\(v\)](#)
 - Also see complementary Coalition requirements at:
 - [45 CFR § 1370.20\(c\)\(1\)\(i\)](#)
 - Note that there are a multitude of references to monitoring throughout the comment/response section of the [full version](#) of the Final Rule/Regulations



Monitoring assigned to States & Coalitions jointly (continued):

- [FVPSA State Notice of Funding Opportunity \(NOFO\)](#)
 - *Section IV. Application and Submission Information/The Project Description/D. Priorities, Assurances, Performance, and Monitoring*
 - (4)(a), (4)(b)(iv), (4)(d), (5)(b)(i)
 - *Appendix A -Assurance of Compliance with Grant Requirements*
 - Assurance (8)



Requirements for Non-Discrimination

- FVPSA Statute
 - [42 U.S.C 10406\(c\)\(2\)\(A\) & \(B\)](#)
- FVPSA Regulations
 - [45 CFR § 1370.3\(7-13\)](#)
 - [45 CFR § 1370.5](#)
- [FVPSA State Notice of Funding Opportunity \(NOFO\)](#)
 - *I. Program Description: Coordinated and Accessible Services*
 - *Section IV. Application and Submission Information/The Project Description/D. Priorities, Assurances, Performance, and Monitoring*
 - (6)(a)
 - *APPENDIX A - Assurance of Compliance with Grant Requirements (15)*
- [ACF Mandatory Terms and Conditions](#)
 - Terms 2k-2p
 - Term 3d



45 CFR §1370.5(a):

(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.



45 CFR §1370.5(a)(1):

(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.



45 CFR § 1370.5(a)(2):

(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...



45 CFR § 1370.5(a)(2) (continued):

(2)...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.



45 CFR § 1370.5(a)(3):

(3) Factors that may be relevant to a grantee's or subgrantee's evaluation of whether sex-segregated or sex-specific programming is essential to the normal or safe operations of the program include, but are not limited, to the following: The nature of the service, the anticipated positive and negative consequences to all eligible beneficiaries of not providing the program in a sex-segregated or sex-specific manner, the literature on the efficacy of the service being sex-segregated or sex-specific, and whether similarly-situated grantees and subgrantees providing the same services have been successful in providing services effectively in a manner that is not sex-segregated or sex-specific. A grantee or subgrantee may not provide sex-segregated or sex-specific services for reasons that are trivial or based on the grantee's or subgrantee's convenience.



45 CFR § 1370.5(a)(4):

4) As with all individuals served, transgender and gender nonconforming individuals must have equal access to FVPSA-funded shelter and nonresidential programs. Programmatic accessibility for transgender and gender nonconforming survivors and minor children must be afforded to meet individual needs consistent with the individual's gender identity. ACF requires that a FVPSA grantee or subgrantee that makes decisions about eligibility for or placement into single-sex emergency shelters or other facilities offer every individual an assignment consistent with their gender identity. For the purpose of assigning a service beneficiary to sex-segregated or sex-specific services, the grantee/subgrantee may ask a beneficiary which group or services the beneficiary wishes to join...



45 CFR § 1370.5(a)(4) (continued)

...The grantee/subgrantee may not, however, ask questions about the beneficiary's anatomy or medical history or make demands for identity documents or other documentation of gender. A victim's/beneficiary's or potential victim's/beneficiary's request for an alternative or additional accommodation for purposes of personal health, privacy, or safety must be given serious consideration in making the placement. For instance, if the potential victim/beneficiary requests to be placed based on his or her sex assigned at birth, ACF requires that the provider will place the individual in accordance with that request, consistent with health, safety, and privacy concerns of the individual. ACF also requires that a provider will not make an assignment or re-assignment of the transgender or gender nonconforming individual based on complaints of another person when the sole stated basis of the complaint is a victim/client or potential victim/client's non-conformance with gender stereotypes or sex, including gender identity.



45 CFR § 1370.5(b):

(b) An organization that participates in programs funded through the FVPSA shall not, in providing services, discriminate against a program beneficiary or prospective program beneficiary on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

(1) Dietary practices dictated by particular religious beliefs may require reasonable accommodation in cooking or feeding arrangements for particular beneficiaries as practicable. Additionally, other forms of religious practice may require reasonable accommodation including, but not limited to, shelters that have cleaning schedules may need to account for a survivor's religion which prohibits him/her from working on religious holidays.



45 CFR § 1370.5(c):

(c) No person shall on the ground of actual or perceived sexual orientation 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) All programs must take into account participants' needs and be inclusive and not stigmatize participants based on actual or perceived sexual orientation.



45 CFR § 1370.5(f):

(f) Nothing in this section shall be construed to invalidate or limit the rights, remedies, procedures, or legal standards available to individuals under other applicable law.



45 CFR § 1370.5(g):

(g) The Secretary shall enforce the provisions of paragraphs (a) and (b) of this section in accordance with section 602 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1). Section 603 of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2) shall apply with respect to any action taken by the Secretary to enforce this section.



Laws and Regulations Enforced by US Dept. of Health & Human Services Office of Civil Rights

- You can find a detailed list on their website:
 - <https://www.hhs.gov/civil-rights/for-providers/laws-regulations-guidance/laws/index.html>
 - Note FVPSA provisions are specifically listed

