



**Sonoma County Continuum of Care Coordinated Entry Committee**  
**Agenda for February 15, 2023**  
**12:00pm-1:30pm Pacific Time**

**Zoom link:**

<https://sonomacounty.zoom.us/j/97231969388?pwd=VWdYWmpHWjJsSFZ6VWVxVW1rZE5lZz09>

	<b>Agenda Item</b>	<b>Packet Item</b>	<b>Presenter</b>	<b>Time</b>
1.	Welcome, Roll Call and Introductions		Committee Chair	12:00pm
2.	Approval of agenda and minutes (Action item)	1,2	Staff	12: 05pm
3.	Changes to Coordinated Entry Policies and Procedures (Action item)	3	Staff/ HomeFirst staff	12:10pm
4.	Overview of quarter 2 Coordinated Entry performance evaluation	4	HomeFirst Staff	12:40pm
5.	Updates to Emergency Shelter, Rapid Rehousing and Permanent Supportive Housing standards (Action Item)	5	Staff	1:10pm
6.	Public Comment on non-agenized items		Public	1:25pm

**PUBLIC COMMENT:**

*Public Comment may be made via email or during the live zoom meeting. To submit an emailed public comment to the CE committee email [Thai.Hilton@sonoma-county.org](mailto:Thai.Hilton@sonoma-county.org). Please provide your name, the agenda number(s) on which you wish to speak, and your comment. These comments will be emailed to all Board members. Public comment during the meeting can be made live by joining the Zoom meeting using the above provided information. Available time for comments is determined by the Board Chair based on agenda scheduling demands and total number of speakers.*



## Sonoma County Continuum of Care Coordinated Entry Advisory Committee (CEA)

November 16th, 2022, 12:00pm. – 1:30pm.

Meeting Recording:

<https://sonomacounty.zoom.us/rec/share/35nyrMPgDU4XNr7GDknsU8A7lx4VIOPMEviLDPjMTydAMrtHdUbthld4kY6fGg73.Ml7o3W3TzVqJnS8e?startTime=1668628680000>

Passcode: @Yo6Dp+&

1. **Welcome and Introductions:** Committee Chair Matthew Verscheure called Meeting to order at 12:03pm; Thai Hilton, Coordinated Entry Coordinator, went over Zoom rules around public comment and Brown Act guidelines.

### Roll Call:

**Present:** Eileen Morris proxy for Robin Phoenix, Mary Haynes, Margaret Sluyk, Ben Leroi, Matthew Verscheure, Susan Pierce, Heather Jackson

**Absent:** Justin Milligan, and Kathleen Pozzi. Ashlyn Artis

2. **Approval of Minutes and agenda:** Approval of meeting minutes form 10/19 and agenda for 11/16.

**Public comment:** none at this time

**Motion:** Ben Leroi motions to approve agenda and minutes ben Susan Pierce seconds.

### Vote:

**Ayes:** Mary Haynes, Margaret Sluyk, Ben Leroi, Matthew Verscheure, Susan Pierce, Heather Jackson

**Nays:**

**Abstain:** Eileen Morris proxy for Robin Phoenix

**Absent:** Justin Milligan, and Kathleen Pozzi. Ashlyn Artis

### Motion Passes

3. **Standing agenda item: Updates to Coordinated Entry Policies and Procedures.** Hunter Scott, Homefirst shared screen and presented recommended changes to CEA Policies and Procedures, items below.

**Change:** Transition Aged Youth eligibility for CES will now include Category 2 homelessness, those immanently at risk of losing their housing. These referrals will be sent to Rapid Rehousing programs



that can accept Category 2 referrals outside of case conferencing due to the timely nature of the need.

**Reasoning:** The TAY By-Name-List has been depleted to near zero participants who have not received a referral with current eligibility and prioritization standards. The Operator is working on several action items to increase outreach to the TAY population to bring in more TAY that meet Category 1 and 4, but also proposes expanding CES eligibility for this population. TAY services often include Category 2 when defining homelessness for that population; the Point In Time count likely included some Category 2 or “couch surfing” TAY as reported by staff who participated in the TAY count. There are currently 3 Rapid Rehousing programs that can accept Category 2 referrals, so this change will also help those programs utilize their funds.

**Public Comment:** None at this time

**Motion:** Margaret Sluyk moves to accept changes to accept category two for Transitional Aged Youth, Ben Leroi seconds.

**Vote:**

**Ayes:** Eileen Morris proxy for Robin Phoenix, Mary Haynes, Margaret Sluyk, Ben Leroi, Matthew Verscheure, Susan Pierce, Heather Jackson

**Nays:**

**Abstain:**

**Absent:** Justin Milligan, and Kathleen Pozzi. Ashlyn Artis

**Motion Passes**

#### **4. Redevelopment of prioritization and assessment:**

Thai Hilton, Coordinated Entry Coordinator reviewed information on CDC and HomeFirst staff believing that the community should redesign the assessment and prioritization processes for the Sonoma County CE system. CDC and HomeFirst staff have recently attended technical assistance trainings on innovative assessment and prioritization processes, including a way to incorporate some level of local preference.

Hunter Scott Homefirst shared PowerPoint that went over assessment vs. prioritization, issues with current assessment and prioritization, lessons learned from Coordinated Entry Prioritization and Assessment Community Workshop and possible solutions.

Recommendation: That a working group be formed to develop a plan for redesigning the community’s assessment and prioritization processes.

**Committee Feedback/Group Discussion:** the need to explore options to redesign tool, gathering input from various groups (Providers, individuals with lived experience, NAACP, Tribal Partners, Corazon), and then forming a Workgroup to create an implementation plan.



**Public Comment:** Danielle Danforth

**Motion:** Ben Leroi motions to direct that the CE operator HomeFirst and CDC staff develop working group to create an implementation plan with community stakeholders for redesigning the Coordinated Entry Prioritization and Assessment processes, Susan Pierce seconds.

**Vote:**

- **Ayes:** Eileen Morris proxy for Robin Phoenix, Mary Haynes, Margaret Sluyk, Ben Leroi, Matthew Verscheure, Susan Pierce, Heather Jackson
- **Nays:**
- **Abstain:**
- **Absent:** Justin Milligan, and Kathleen Pozzi. Ashlyn Artis

**Motion passes**

**5. Local Preferences in CE referrals for HHAP-funded programs:** Thai Hilton, Coordinated Entry Coordinator reviewed October 19<sup>th</sup>, CEA Committee meeting, where service providers discussed whether to maintain a local preference system for HHAP-funded (Homelessness Housing Advocacy and Prevention) projects. With a local preference, Coordinated Entry would refer a client in a specific geographic area to housing operated by a service provider in that area in addition also shared feedback for providers who advocate for the retention of local preference and those who advocate against the local preference. Also shared, vulnerability impact of west county and north county preference data.

**Motion:** Ben Leroi motions to allow providers who have had regional preference in their contracts in the past specifically for HHAP funding that allows it to continue, and that preference needs to be the client's choice on which region of the county they wish to live in. one third of referrals to be made for those which have no preference selected on region. Margaret Sluyk seconds motion.

**Public Comment:** none at this time

**Vote:**

- **Ayes:** Eileen Morris proxy for Robin Phoenix, Mary Haynes, Margaret Sluyk, Ben Leroi, Matthew Verscheure, Susan Pierce
- **Nays:**
- **Abstain:**
- **Absent:** Justin Milligan, and Kathleen Pozzi, Ashlyn Artis, Heather Jackson

**Motion passes**

**6. Public Comment on non-agendized items:** none at this time

**Meeting adjourned at 1:34pm**



## Sonoma County Continuum of Care Coordinated Entry Advisory Committee Executive Summary

**Item:** 3 Updates to Coordinated Entry Policies and Procedures

**Date:** February 15, 2023

**Staff Contact:** Hunter Scott [Hscott@homefirstsc.org](mailto:Hscott@homefirstsc.org) Thai Hilton [thai.hilton@sonoma-county.org](mailto:thai.hilton@sonoma-county.org)

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### Agenda Item Overview

HomeFirst will regularly provide updates to the Coordinated Entry policies and procedures. Attached is a description of the changes and the rationale for the change.

### Recommendation

Approve the updates to the CE polices and procedures.

## Policy changes:

- 1) Clarified the number of referrals that will be sent per program opening per week, to reduce confusion and speed movement of participants into housing. With limitations, a total of 4 referrals may be provided per opening per week.
- 2) Added a requirement that participants have 48 hours after an initial offer is made to decide whether they will accept, to ensure that openings are not held up and other participants have the opportunity to move into housing.
- 3) Added a suggested standard that housing providers not be asked to wait longer than 2 weeks before rejecting a referral due to no contact. This was already an option for housing providers to request to deny the referral at any case conference, but this language gives the housing providers more explicit leeway to move quicker to another referral. Some housing providers currently experience having referrals pending for weeks ongoing as outreach teams and access points fail to stay in communication with the housing provider, or attempt to get their client in contact with the housing opportunity. This standard is intended to increase accountability for these types of access providers to proactively connect their clients quickly to available housing opportunities. Note: Cherry Creek Village staff requested that this timeline be shortened to 1 week. Operator seeks CEA input into the specific timeline that is appropriate.
- 4) Added a procedure to enforce accountability to data quality and uploading ROIs. Current HMIS Policy Manual states that ROIs must be uploaded. Additional training will be provided and access to CES programs in HMIS revoked if continued infractions occur. Staff must take additional training to regain access if so. This is due to an estimated half of client records that are missing ROIs, and for some providers many of their new assessments are entered without ROIs despite repeated training. This issue is significantly harming participants of the system; referrals cannot be made for any identifiable participant who does not have an ROI that can be verified by the Operator.
- 5) Added a Retraction policy clarifying when a referral would be retracted due to ineligibility for CES vs rejected by the provider.
- 6) All references to Community Development Commission throughout will be changed to Homeless Services Division or Lead Agency.

Language changes below in yellow, old language crossed out.

### Uniform Referral Procedure

- 1) All housing referrals, except those identified below, shall be identified and unanimously agreed upon by the community present at the CES Case Conference. Exceptions are:

- a. Participants referred to housing programs dedicated to survivors of or those fleeing domestic violence; see “Referrals to Housing Programs Dedicated to Survivors of or Those Fleeing Domestic Violence” below;
  - b. Those RRH openings set aside for participants who have identified housing as described in Prioritization for Rapid Rehousing in section [D. Prioritization](#).
- 2) Referrals shall be made based on community prioritization standards (see section [D. Prioritization](#)), initial eligibility, and the following standards:
- a. ~~For each housing intervention (PSH, RRH etc), when there are multiple providers seeking openings, each program shall be limited to 5 referrals in each CES Case Conference. Exceptions may be made on a case by case basis.~~ Per each program opening, at CES Case Conference 1 primary referral shall be provided and, if the program chooses, 1 backup referral per opening.
    - ~~i. Three additional referrals may be provided as “back-up” referrals at provider request between CES Case Conference. If the pending referrals made at a previous CES Case Conference were found to be ineligible for CES (not meeting the homelessness eligibility, for example) or the participant refuses the referral, those referrals may be replaced by 1 corresponding additional referral, per referral, in between CES Case Conference. This procedure corresponds to a total of 4 referrals that may be possibly made per week per opening. These additional referrals shall be presented to the community at the following CES Case Conference, and retracted if for any reason they are not agreed upon as appropriate by the community present.~~
    - ~~ii. Additional referrals per program opening shall only be made at CES Case Conference if there are no previously pending referrals per program opening.~~
  - b. Within each housing intervention type (PSH, RRH, and “Other”), 75% of openings referred to at each case conference shall be referred based on next Total Prioritization Score on the active By-Name-List and initial eligibility screening. The remaining 25% (rounded down in when the number is not whole), or 1 opening, whichever is higher, shall be set aside for Enhanced Prioritization, Progressive Engagement, or program transfer, based on community prioritization standards and initial eligibility screening. If no participants are submitted within these categories, the remaining openings within each intervention type shall be filled based on the next Total Prioritization Score and initial eligibility screening.

- c. Within any set of openings to a particular intervention type (PSH, RRH, and “Other”) with eligibility criteria that can accept any subpopulation type (individuals, families, TAY), equal referrals shall be made from each subpopulation active By-Name-List. If there are an odd number of openings, priority shall be made for the subpopulation(s) with higher number of eligible participants on the relevant By-Name-List.
- 3) The CES Operator shall submit all referrals agreed upon in CES Case Conference within 24 hours in HMIS to the relevant housing provider, along with a copy of the HMIS project history.
- 4) The housing provider shall be responsible for contacting the participant and offering to move forward with the referral.
  - a. Access Points and other community providers who are in contact with the referred participant have a role in supporting the housing provider in contacting the participant, within staffing availability.
- 5) If multiple programs with the same eligibility criteria have openings, the above standards (2) a.-c.) shall be followed for all programs with openings, inclusive of the same participant being referred more than once at the same time. The housing providers shall coordinate, including at CES Case Conference, to ensure the referred participant is offered the choice between openings. Participants shall not receive an additional referral if they already have a pending referral from 24 hours or more prior.
  - a. ~~Participants shall have 48 hours from the time they are offered the choice between housing programs to make their choice. If no choice is made, the program that is located closest to the participant’s location preference identified at assessment shall remain available to the participant, and the other program shall receive a new referral following the Uniform Referral Procedure. If no preference was given, the program that first notified the CES Operator of an opening will remain available to the participant.~~
- 6) Participants shall have 48 hours from the time they are offered the choice of a housing opportunity to accept or refuse. Housing providers shall exhaust all options to contact the participant to make their choice after initial contact.
- 7) The housing provider shall record all attempts to contact the participant when following up on a referral. Records of attempted contacts, contacts made and their disposition shall be recorded in the “Case Notes” of each participant’s HMIS CES Dashboard.
- 8) Once the housing provider has verified eligibility (see “section [H. Eligibility Documentation Roles and Responsibilities](#)”), they shall accept the referral in HMIS.



- a. If the housing provider cannot verify eligibility, they shall follow the “Rejection of Referrals” policy and procedure below.

### Rejection of Referrals

Only four standardized options are available for rejecting a referral from Coordinated Entry: the participant does not meet eligibility requirements, the project is not currently accepting applications, the participant has disappeared or is not able to be located, or the participant refused the housing offer. Providers may not reject a referral without a consensus approval of all parties present at CES Case Conference. Housing providers may request to reject a referral at any CES Case Conference subsequent to the referral being made.

#### *Procedure:*

- 1) The Housing Provider shall record all attempts to contact participant when following up on a referral. Records of attempted contacts, contacts made and their disposition shall be recorded in the “Case Notes” of each participants’ HMIS dashboard and electronic file.
- 2) All referral rejections must be brought to CES Case Conference and the reasons for rejection and attempts to accept the referral presented. They may request additional support or community expertise in moving forward with the referral. The rejection request will be voted on by all parties present at CES case conference.
  - a. After voting approval, the Housing Provider will reject the referral in HMIS and include a note of the reason why.
- 3) If a provider wishes to appeal a rejection decision made at CES Case Conference, they may present the case at the Coordinated Entry Advisory Committee Shelter and Appeals Subcommittee.

#### *Rejection Standard: Does not meet eligibility requirements*

- The CoC maintains a public website with eligibility requirements for all projects in the CoC’s geographic area participating in Coordinated Entry. A housing provider may reject a referral only if the participant does not meet basic published eligibility requirements, inclusive of (when applicable) immediate safety risk or meeting activities of daily living (ADLs), or the provider has exhausted all options to document eligibility. Examples include single adults that were part of a family unit when assessed and have been referred to a families-only project, or non-veterans attempting to access SSVF funded units. An agency may not reject a participant on presumed “fit” in housing or shelter. An agency may not reject a participant due to barriers in documenting eligibility without exhausting all possible options first.

*Rejection Standard: Program no longer accepting applications*

- If a program is no longer accepting applications, the referring agency and CE will work together to redirect the referral to another program within HMIS. This includes instances when a project serves multiple populations (ex: individuals and families) but only has openings for one population at a given type.

*Rejection Standard: Unknown/Disappeared*

- If referring agencies have exhausted all options to contact a referral, they may request to decline the referral as “unknown/disappeared.” Every attempt shall be made to contact the participant, including calling, emailing, and texting available contact methods multiple times, physical outreach, contacting ~~HOST~~ outreach workers, Coordinated Entry staff, and all known service providers. To ensure quick movement of participants into available openings, the community present at CES Case Conference is highly encouraged to allow housing providers to reject a referral if they have exhausted all options to contact them and it has been 2 weeks since the referral was made, though each case should be considered with its own context.

*Rejection Standard: Participant Refused Offer*

- If a participant refuses a referral, the below “Right of Refusal” policy will be followed.

Retraction of Referrals

If a referral is made for any participant who is found to be ineligible for CES as described in the By-Name-List Management and Inactive Policy above, the referral shall be retracted by the CES Operator and the aforementioned Policy and Procedure shall be followed.

## A. Data Management

The HMIS is key to centralizing information to measure outcomes and determine client needs through Coordinated Entry. Not all stakeholders have direct access to HMIS. Throughout the CoC, service provider agencies that directly interact with people facing homelessness actively use and contribute to the HMIS. All HMIS Lead personnel (including employees, volunteers, affiliates, contractors and associates), and all participating agencies and their personnel, are required to comply with the HMIS User Policy, Agency Participation Agreement, and Code of Ethics Agreement. All personnel in the CES participating agencies with access to HMIS must receive and acknowledge receipt of a copy of the Participation Agreement and receive training on this Privacy Policy before being given access to HMIS.

To comply with federal, state, local, and funder requirements, information about the homeless persons, their dependents, and the services that are provided to them, is required to be collected in the HMIS. When assistance is requested it is assumed that the client is consenting (“inferred consent”) to the use of the HMIS to store this information. The participants have the right to explicitly refuse the collection of this information, and participating agencies are not permitted to deny services for this reason. However, such refusal may severely impact the ability of any participating agency throughout the CES to qualify the client for certain types of assistance or to meet their needs.

Data collection should not be confused with data sharing (“disclosure”). Participating agencies are required to provide the client with an opportunity to consent to certain disclosure of their information with CE and cooperating agencies, either in writing or electronically. If the client consents to the disclosure of their information, they enhance the ability of CES to assess their specific needs and to coordinate delivery of services for them.

To protect the privacy and the security of client information, the HMIS is governed by data access control policies and procedures. Every user’s access to the system is defined by their user type and role. Their access privileges are regularly reviewed and access is terminated when users no longer require that access. Controls and guidelines around password protection and resets, temporary suspensions of User Access and electronic data controls are in place and are outlined in detail in the HMIS User Agreement.

Services shall not be denied if the participant refuses to allow their data to be shared, unless Federal statute requires collection, use, storage and reporting of a participant’s personally identifiable information as a condition of program participation.

HMIS users shall be informed and understand the privacy rules associated with collection, management, and reporting of client data.

The CES Operator is responsible for maintaining data quality with the HMIS CES programs, including working with and training users accessing those programs on data quality.

### Privacy Protections

The CoC ensures adequate privacy protections of all participant information per the HMIS Data and Technical Standards (CoC Interim Rule – 24 CFR 578.7(a)(8)). All providers participating in Coordinated Entry must undergo training provided by the HMIS Technician II and CES Operator before gaining access to the CES By-Name-Lists. Participant consent is obtained in a uniform written release of information and is stored in a secure location. **If the participant agrees to data sharing on their release of information, that release of information shall be uploaded into the CES dashboard on HMIS.** Participants are informed of all cooperating agencies who may have access to their information for purposes of referral through the CE process. All users of HMIS in cooperating agencies in CE are trained by the HMIS Administrator and CES Operator on data collection, management, and reporting.

The CoC prohibits denying services to participants if they refuse their data to be shared unless Federal statute requires collection, use, storage, and reporting of a participant's personally identifiable information as a condition of program participation. The CoC only shares participant information and documents when the participant has provided written consent through the CES Release of Information.

*Procedure:*

- 1) In the event of a data quality or privacy infraction pertaining to CES, including failing to upload a release of information for identifiable participants while entering new data, the CES Operator shall notify the staff responsible and their supervisor and request corrections be made.
- 2) In the event of additional infractions or lack of corrections to existing infractions within 1 week, the CES Operator shall notify the staff responsible, their supervisor, and the HMIS lead for the agency and offer additional training.
- 3) In the event of a 3<sup>rd</sup> infraction or lack of corrections to previous infractions, the CES Operator has the ability to revoke access to the CES programs in HMIS for the staff responsible. The supervisor, HMIS lead, and CES contact identified on the CES MOU shall be notified if so. The staff responsible shall be required to take the HMIS Ethics and Confidentiality training and any additional training identified by the CES Operator specific to the infraction before CES access is renewed.



## Sonoma County Continuum of Care Coordinated Entry Advisory Committee Executive Summary

**Item:** 4. Coordinated Entry System (CES) quarterly performance evaluation report

**Date:** February 15, 2023

**Staff Contact:** Hunter Scott [hscott@homefirstsc.org](mailto:hscott@homefirstsc.org) Thai Hilton [thai.hilton@sonoma-county.org](mailto:thai.hilton@sonoma-county.org)

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### Agenda Item Overview

HomeFirst has completed the second CES quarterly performance evaluation report. This report contains data, analysis, and action steps HomeFirst will take. HomeFirst will present an overview of this report to the committee and be available for any questions. The full report can be found using the link below.

[https://share.sonoma-county.org/link/cd1-qv\\_CKg4/](https://share.sonoma-county.org/link/cd1-qv_CKg4/)

### Recommendation

None. Information only

## Sonoma County Continuum of Care Coordinated Entry Advisory Committee Executive Summary

**Item:** 5. Updates to Emergency Shelter Standards, Rapid Rehousing Standards and Permanent Supportive Housing Standards

**Date:** February 8, 2023

**Staff Contact:** Thai Hilton [thai.hilton@sonoma-county.org](mailto:thai.hilton@sonoma-county.org)

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### Agenda Item Overview

Below is a summary of the changes to the Emergency Shelter Standards, Rapid Re-housing standards and Permanent Supportive Housing Standards

#### **Emergency Shelter Standards update:**

The emergency shelter standards were approved before the change in CE operators. The proposed changes are intended to bring the shelter standards in line with the CES policies and procedures. Attached is a summary of those changes.

- Information was added regarding serving undocumented individuals in homeless service programs due to questions from providers around this topic. This information was reviewed and approved by County Counsel.
- Removed all references to the Community Development Commission and replaced with Department of Health Services to reflect the change to the lead agency.
- Added information about providers' responsibility to adhere to HUD's Equal Access Final Rule and HUD's Gender Identity Final Rule.

#### **Rapid Re-housing Standards update:**

- Added information about serving undocumented individuals. See attached document with language.
- Removed all references to the Community Development Commission and replaced with Department of Health Services to reflect the change to the lead agency.

#### **Permanent Supportive Housing Standards update:**

- Added information about serving undocumented individuals. See attached document with language.
- Removed all references to the Community Development Commission and replaced with Department of Health Services to reflect the change to the lead agency.

### Recommendation

Approve all changes.

Edits to Emergency Shelter Standards. The language for serving undocumented individuals will be the same across the standards.

1) **Program Elements: Housing focused pg. 5**

- a. **Change:** “Participants should be referred to Coordinated Entry within 5 days of entering a shelter program. When able, shelter providers will enroll client into Coordinated Entry.” See changes below

For all permanent shelters, participants should be enrolled in Coordinated Entry within 3 days of entering a shelter program. For winter or temporary shelters, shelters will refer a participant to a CE access site within 3 days of entering the shelter program.

**Rationale:** the change of 5 days to 3 days: To align with CES Policies and procedures

The addition of “For winter or temporary shelters, shelters will refer a participant to a CE access site within 3 days of entering the shelter program.”: To clarify that temporary and winter shelters are not required to enroll participants into CE. Permanent shelters are required to be access points.

2) **Shelter intake policy pg. 7:**

- a. **Remove:** “Additionally, individuals who are at the top of the by names list who are waiting on imminent placement into a permanent supportive housing project may be referred by CES to this 25% set aside.”
- b. **Rationale:** CE only refers to housing programs, not shelter. This policy should be added to the Outreach standards as those teams can already refer to the 25% set-aside beds. If an individual is in this situation, outreach teams or other emergency-service providers can refer the individual to the set-aside beds.

3) **Coordination with other providers: Coordinated Entry System policy pg.10, 11**

- a. **Change:** Individuals who access shelters, must be able to enroll eligible participants directly and into HMIS and the shelter project within ~~5~~ 3 business days or make a referral to an access point within the same period of time
- i. **Rationale:** Change needed to align with CES policies and procedures.
- b. **Change:** To the extent possible, a shelter representative should attempt to attend the ~~monthly~~ weekly CES case conferences.

- i. **Rationale:** Case conference meetings are now held weekly.

4) **Non-Discrimination pg. 25**

**Add:** Services are provided to program participants are offered in a nondiscriminatory basis with respect to race; color; national origin or citizenship status; age; disability (physical or mental); religion; sex; sexual orientation or identity; genetic information; HIV or AIDS; medical conditions; political activities or affiliations; military or veteran status; status as a victim of domestic violence, assault or stalking; or any other federal, state or locally protected group.

Providers of the Continuum of Care are required to adhere to HUD’s Equal Access Final Rule and HUD’s Gender Identity Final Rule. Through the final rules, HUD ensures equal access to individuals in accordance with their gender identity in programs and shelter funded under programs administered by HUD's Office of Community Planning and Development (CPD). HUD's housing programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status

# Serving undocumented individuals in homeless service programs

## I. PRWORA Restrictions and Exceptions

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (“PRWORA”) restricted undocumented individuals from accessing a number of public benefits, including housing and homeless services. However, the PRWORA also created exceptions that allow access, regardless of the recipients’ immigration status, to programs and services that:

- i. deliver in-kind services at the community level;
- ii. do not condition the provision of assistance on the program participants’ income or resources; and
- iii. are necessary for the protection of life or safety.<sup>1</sup>

## II. Guidance from the U.S. Attorney General and HUD

The U.S. Department of Justice (DOJ) interpreted the above three-prong test to mean that all individuals, regardless of immigration status, should be given access to:

- “Short-term shelter or housing assistance for the homeless, for victims of domestic violence, or for runaway, abused or abandoned children,” and
- “Programs, services, or assistance to help individuals during periods of heat, cold, or other adverse weather conditions.”<sup>2</sup>

To date, U.S. Department of Housing and Urban Development (HUD) has not issued any similar guidance clarifying which of its homeless assistance programs are subject to PRWORA’s noncitizen eligibility restrictions.<sup>3</sup> However, in 2016, HUD, DOJ and the U.S. Department of Health and Human Services (HHS) issued guidance specifying that the following programs and services shall remain accessible to all eligible individuals, regardless of immigration status:

- Transitional Housing (for up to two years, where the recipients or sub-recipients of government funds own or lease the housing)<sup>4</sup>
- Street Outreach Services
- Emergency Shelters
- Safe Havens
- Rapid Re-housing<sup>5</sup>

## III. Exceptions to Verification Requirements for “Nonprofit Charitable Organizations”

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<sup>1</sup> 8 U.S.C.A. § 1611(b)(1)(D).

<sup>2</sup> U.S. Dept. Justice, Final Specification of Community Programs Necessary for Protection of Life or Safety Under Welfare Reform Legislation, 66 Fed. Reg. 3613-02 (January 16, 2001).

<sup>3</sup> Congressional Research Service, Noncitizen Eligibility for Federal Housing Programs (updated Nov. 20, 2022) (“CRS Report”), at pp. 13-14.

<sup>4</sup> HUD notes that Transitional Housing must be provided to all persons regardless of immigration status when recipients or sub-recipients of government funding own or lease the buildings used to provide the transitional housing. However, the PRWORA restricts access based on immigration status to transitional housing in which the recipients or sub-recipients of government funds provide rental assistance payments to program participants based on the participants’ income. See U.S. Dept. Hous. & Urban Dev., The Personal Responsibility and Work Opportunity Act of 1996 and HUD’s Homeless Assistance Programs (Aug. 16, 2016) (“HUD Fact Sheet”).

<sup>5</sup> See HUD Fact Sheet; U.S. Dept. Hous. & Urban Dev., U.S. Dept. Health & Human Serv., U.S. Dept. Justice, interpretive letter (Aug. 5, 2016) (“Joint Letter”), at pp. 2-3.



While the PRWORA generally requires government agencies to verify the immigration status of applicants for public benefit programs, “nonprofit charitable organizations” are **not** required to verify the immigration status of applicants for federal, state or local public benefits, including for Permanent Supportive Housing programs.<sup>6</sup>

#### IV. Other Applicable Restrictions

Notwithstanding the PRWORA’s immigration-related restrictions, organizations or agencies that receive federal funding must not discriminate against individuals on the basis of race, national origin or any basis protected under the following:

- Title VI of the Civil Rights Act of 1964
- Fair Housing Act
- Violence Against Women Act
- Family Violence Prevention and Services Act
- Section 109 of Title I of the Housing and Community Development Act of 1974
- Any other applicable nondiscrimination law<sup>7</sup>

In addition, HUD, HHS and DOJ have advised that:

*“Denying an individual a public benefit or treating an individual differently because of that individual’s race or national origin would violate one or more of these statutes. For example, a recipient of federal financial assistance may not deny benefits to applicants because they have ethnic surnames or origins outside the United States. Nor may the recipient single out individuals who look or sound “foreign” for closer scrutiny or require them to provide additional documentation of citizenship or immigration status. Also, because individuals might come from families with mixed immigration status, there may be some family members who are eligible for all benefits and others who are not eligible or who can receive only a more limited subset of those benefits. Therefore, benefits providers must ensure that they do not engage in practices that deter eligible family members from accessing benefits based on their national origin.”<sup>8</sup>*

#### Useful links:

- Full text of the PRWORA: <https://www.congress.gov/104/plaws/publ193/PLAW-104publ193.pdf>
- Joint Letter: <https://files.hudexchange.info/resources/documents/HUD-HHS-DOJ-Letter-Regarding-Immigrant-Access-to-Housing-and-Services.pdf>
- HUD Fact Sheet: <https://files.hudexchange.info/resources/documents/PRWORA-Fact-Sheet.pdf>
- DOJ Interim Guidance: <https://www.govinfo.gov/content/pkg/FR-1997-11-17/pdf/97-29851.pdf>
- CRS Report: <https://crsreports.congress.gov/product/pdf/R/R46462>

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<sup>6</sup> 8 U.S.C.A. § 1642. A nonprofit charitable organization that chooses not to verify an applicant’s immigration status cannot be penalized (e.g., through cancellation of its grant or denial of reimbursement for benefit expenditures) for providing federal public benefits to an individual who is not a U.S. citizen, U.S. noncitizen national or qualified alien, except when it does so either in violation of independent program verification requirements or in the face of a verification determination made by a non-exempt entity. However, if a nonprofit charitable organization chooses to verify, even though it is not required to do so under the PRWORA, it must comply with the procedures set forth by the Attorney General pursuant to the DOJ Interim Guidance and provide benefits only to verified to U.S. citizens, U.S. non-citizen nationals or qualified aliens. U.S. Dept. Justice, Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility Under Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 62 Fed. Reg. 61344-02 (Nov. 17, 1997) (“DOJ Interim Guidance”).

<sup>7</sup> Joint Letter, at p. 4.

<sup>8</sup> *Ibid.*