



## Legal Non-Discrimination and Gender-Neutral Restrooms

### Public Hygiene Lets Us Stay Human (PHLUSH)

June 24, 2008

**Background:** Public restrooms have been at the forefront of human rights struggles: for African Americans, for women in workplaces dominated by men and for people with disabilities. Transgender legal rights are next; it's only a matter of time.

**The Problem:** According to the Transgender Law Center, “many transgender and non-transgender people have no safe places to go to the bathroom - get harassed, beaten, and arrested in BOTH women’s and men’s rooms”. According to a 2002 survey by the San Francisco Human Rights Commission, “50% of respondents reported having been harassed or assaulted in a public restroom”.

**Legal Framework:** New York City’s Human Rights Law explicitly protects all New Yorkers from discrimination on the basis of gender identity or expression. Compliance guidelines consider gender-segregated facilities such as homeless shelters, locker rooms and bathrooms. Both the City of Portland and Multnomah County have laws that forbid discrimination on the basis of gender identity or expression.

#### **Safety:**

- The current bathroom situation does not adequately ensure women’s safety. Putting a sign that says “women” on the door of a bathroom does not stop people who want to harm women from entering.
- The current bathroom situation is not particularly safe for children either. Gender-neutral bathrooms are safer for children because opposite sex parents and caretakers can personally ensure their safety.
- Gender-neutral bathrooms do not, in and of themselves, eradicate the need for non-transgender people to be respectful. However, they decrease the potential for violence by providing a multi-gendered environment in which transgender and gender non-conforming people do not automatically stand out.

#### **Comfort:**

- People may at first feel embarrassed and uncomfortable about using a common facility. Minor discomfort is a small price to pay for benefits in safety.
- “Social change that increases access for an excluded group and eliminated discrimination requires a reform of social practices that makes people who have not been negatively affected by the existing arrangements [necessarily but only initially] uncomfortable.”
- Most people have lived in mixed-gender homes and share bathrooms with minimal problems. People of different genders can learn to share public bathrooms. Common facilities may even foster civil behavior and cleanliness; for example, more people may wash their hands after using the toilet.
- Encourage building managers to put up signs urging people to respect one another when using the bathroom.

#### **Layout and design:**

- Focus on privacy. Intelligent design results in privacy AND safety.
- Build bathrooms in a way that provides more privacy than most bathrooms currently do. Stall doors should extend all the way to the ground.
- Locks to individual stalls should function efficiently.
- Place urinals in stalls.
- In the long term, gender-neutral facilities save new construction costs.

#### **Public education and advocacy**

- The big hurdle with gender neutral facilities is demonstrating that it is a workable idea. This requires education, patience, and in some cases direct action.
- Transgender activists note that this is an issue that causes much discussion. But they demonstrate that the problem is not objections from fellow but rather “fear among the decision makers that somebody *might* object.”
- From San Diego, Mary Coakley reports that unisex stalls generated considerable controversy during planning stages but that the comfort station has been embraced and acclaimed by the community since the day it opened.

**Sources:** *Peeing in Peace: A Resource Guide for Transgender Activists and Allies*. A publication of the Transgender Law Center, 2005. <http://www.transgenderlawcenter.org/publications.html#bathrooms>  
*Toilet Training Video and Companion Guide for Activists and Educators*. Sylvia Rivera Law Project, 2003. Toolkit at <http://www.srlp.org/index.php?sec=05A&page=toilettraining>