



Legislation Text

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Int. No. 1532

By Council Members Powers, Kallos, Rosenthal and Levine

A Local Law to amend the administrative code of the city of New York, in relation to housing decisions made for transgender, gender nonconforming, and intersex individuals

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 9 of the administrative code of the city of New York is amended by adding a new section 9-157 to read as follows:

§ 9-157 Housing requests related to gender identity. a. Definitions. For the purposes of this section, the following terms have the following meanings:

Gender-identity. The term “gender-identity” refers to a person’s sense of identifying with a certain gender.

Intersex. The term “intersex” means a person who has sexual or reproductive anatomy or chromosomal pattern does not seem to fit typical definitions of male or female.

Transgender. The term “transgender” means a person who has a gender identity that is different from the person’s assigned sex at birth.

b. Subject to section 115 of title 28 of the code of federal regulations, all incarcerated individuals shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other incarcerated individuals. The intake screening shall consider, at a minimum, the following criteria to assess incarcerated individuals for risk of sexual victimization:

1. Whether the incarcerated individual has a mental, physical, or developmental disability;
2. The age of the incarcerated individual;

3. The physical build of the incarcerated individual;

4. Whether the incarcerated individual has previously been incarcerated;

5. Whether the incarcerated individual's criminal history is exclusively nonviolent;

6. Whether the incarcerated individual has prior convictions for sex offenses against an adult or child;

7. Whether the incarcerated individual is or is perceived to be gay, lesbian, bisexual, transgender, intersex, or gender nonconforming;

8. Whether the incarcerated individual has previously experienced sexual victimization;

9. The incarcerated individual's own perception of vulnerability; and

10. Whether the incarcerated individual is detained solely for civil immigration purposes.

c. Subject to section 115 of title 28 of the code of federal regulations, the department shall establish a process for transgender and intersex individuals to self-identify as such at intake, and use such self-identification to make housing and programming assignments on a case-by-case basis. In determining such housing and programming assignments, the department shall consider whether a placement would ensure the incarcerated individual's health and safety, and whether the placement would present management or security problems. The department shall not prevent incarcerated individuals from identifying as transgender solely because of classification as a different gender while previously incarcerated or because of the absence of documents indicating medical transition.

d. Subject to section 115 of title 28 of the code of federal regulations, the department shall establish a process for allowing transgender and intersex individuals who have requested entrance into a type of housing facility due to such identification and have been denied such request to appeal such denial. The department shall maintain formal written procedures consistent with this policy and with the following provisions:

1. The department shall provide written notice to such individuals that such a determination may be appealed, and describe the appeals process in plain and simple language. The department shall ensure that such written notice is available in multiple languages.

2. The department shall create an appellate review board consisting of the chief of correction or their designee, the commissioner of correction or their designee, and the vice president of correctional health services or their designee to review the initial decision. The appellate review board shall not consist of the same decision-makers responsible for making initial housing determinations.

3. The appellate review board shall issue a determination within 48 hours of receipt of any appeal and shall consider the written opinion of the board of correction in making its determination.

4. Within 24 hours of making its determination, the appellate review board shall provide the incarcerated individual with a written copy of the determination specifying the facts and reasons underlying such determination. Where the appellate review board reaches a decision against the advice of the advisory committee, the appellate review board shall explain the discrepancy.

5. The department shall provide all written materials having to do with the appeals process in multiple languages, and shall ensure that incarcerated individuals are given any verbal assistance necessary to meaningfully understand such procedures.

§ 2. Section 626 of the New York city charter, as amended by local law number 102 for the year 1977, is amended by adding a new subsection h to read as follows:

h. The board shall issue opinions to the department regarding appeals of housing requests related to gender-identity.

§ 3. This local law takes effect 90 days after it becomes law.

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