



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Director  
Office for Civil Rights  
Washington, D.C. 20201

July 12, 2012

Maya Rupert, Esq.  
Federal Policy Director  
National Center for Lesbian Rights  
1325 Massachusetts Ave. NW, Suite 700  
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OCR Transaction Number: 12-000800

Dear Ms. Rupert:

Thank you for your letter to Secretary Kathleen Sebelius, which was forwarded for reply to the U.S. Department of Health and Human Services (HHS), Office for Civil Rights (OCR). In your letter, you requested that we issue guidance clarifying that sex-based discrimination includes discrimination on the basis of gender identity and sex stereotypes under Section 1557 of the Affordable Care Act.

As you may know, OCR enforces Section 1557 of the Affordable Care Act (42 U.S.C. 18116), which provides that an individual shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the grounds prohibited under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.* (race, color, national origin), Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.* (sex), the Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.* (age), or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 (disability), under any health program or activity, any part of which is receiving Federal financial assistance, or under any program or activity that is administered by an Executive Agency or any entity established under Title I of the Affordable Care Act or its amendments. OCR has enforcement authority with respect to health programs and activities that receive Federal financial assistance from HHS or are administered by HHS or any entity established under Title I of the Affordable Care Act or its amendments.

We agree that Section 1557's sex discrimination prohibition extends to claims of discrimination based on gender identity or failure to conform to stereotypical notions of masculinity or femininity and will accept such complaints for investigation. Section 1557 also prohibits sexual harassment and discrimination regardless of the actual or perceived sexual orientation or gender identity of the individuals involved.

The HHS OCR is currently accepting and investigating complaints filed under Section 1557. We thoroughly review each complaint received; employ a case-by-case analysis of the facts and the relevant law; make a carefully considered decision on jurisdiction; and when warranted, issue a

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finding that discrimination has (or has not) occurred. The HHS OCR intends to issue future guidance on Section 1557.

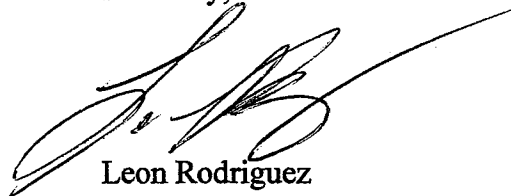
Until then, to make sure individuals, community organizations and providers know their rights and responsibilities, we ask you to help promote our website, [www.hhs.gov/ocr](http://www.hhs.gov/ocr), and:

- Learn about and connect with any one of our ten OCR regional offices  
<http://www.hhs.gov/ocr/office/about/rgn-hqaddresses.html>
- Learn how to file a complaint with OCR if you think your rights have been violated  
<http://www.hhs.gov/ocr/civilrights/complaints/index.html>
- Visit the HHS OCR You Tube channel (search for HHS OCR) for additional videos on topics like “Your Health Information, Your Rights” or “Communicating with Family, Friends and others Involved in Your Care”.

I also want to underscore what we discussed and shared during OCR’s January 30, 2012 LGBT/HIV Stakeholders Listening Session: my office is continuing and will continue to increase our outreach and education efforts with individuals, community organizations and providers regarding their rights and responsibilities under Section 1557. The Office for Civil Rights is absolutely committed to working with individuals and advocates to improving the health and well-being of members of the lesbian, gay, bisexual and transgender communities, and of course, the commitment to sincerely engage and partner with the LGBT community is a Department-wide commitment as demonstrated by the Secretary (see <http://www.hhs.gov/secretary/about/lgbthealth.html>) and the 2012 HHS LGBT Coordinating Committee Report which is available at [http://www.hhs.gov/secretary/about/2012\\_lgbt\\_an\\_rpt.pdf](http://www.hhs.gov/secretary/about/2012_lgbt_an_rpt.pdf).

Again, thank you for your leadership on these critical matters to the LGBT community and for your very thoughtful letter, and we look forward to our growing partnership and work together.

Sincerely,



Leon Rodriguez

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