

Frequently Asked Questions
Proposed Missoula Anti-Discrimination Ordinance
4/12/2010

- 1. Why does Missoula need the proposed ordinance if federal and state laws already have anti-discrimination protections?**
 - a. State and federal anti-discrimination protections do not include protections for sexual orientation and gender identity or expression. The proposed ordinance would extend anti-discrimination protections to lesbian, gay, bisexual, and transgender people. Twenty-one states, the District of Columbia, and at least 129 cities and counties have taken similar action.
- 2. Will the proposed ordinance give preferential treatment to lesbian, gay, bisexual, and transgender individuals?**
 - a. No. The proposed ordinance will prohibit discriminating against individuals because of their sexual orientations and gender identities or expressions. The proposed ordinance will create a mechanism for redress if individuals feel that they have been discriminated against based on their sexual orientations and/or gender identities or expressions. Individuals will be able to make complaints and engage in a process of fact-finding that would prove or disprove an individual's claim of discrimination.
- 3. What does gender identity or expression mean?**
 - a. Gender identity describes how people perceive their own internal sense of maleness or femaleness. Gender expression is the physical manifestation of one's gender identity, usually expressed through clothing, mannerisms, and chosen names.
- 4. Does the proposed ordinance force churches to engage in activities that are contrary to their religious doctrine or beliefs?**
 - a. No. The proposed ordinance does not have any effect on the Constitutionally protected exercise of religion. Churches and other religious institutions will be exempt from this ordinance when engaging in the practice of their religion or in activities that are for a religious purpose.
- 5. Does the proposed ordinance address "gender confused?"**
 - a. No.
- 6. What does transgender mean?**
 - a. Transgender is when a person's self-identified gender is different from the gender assigned at birth.
- 7. Does the proposed ordinance change access to public restrooms?**
 - a. No. The ordinance prohibits discrimination in public accommodations. This means that if people feel they are denied access to public restrooms based on their sexual orientations and/or gender identities or expressions, they could make complaints and engage in a process of fact-finding that would prove or disprove their claims of discrimination.
- 8. Does this ordinance prohibit gender-segregated public restrooms?**

- a. No. The proposed ordinance does not require any changes to gender-segregated public restrooms. This ordinance does require that individuals are permitted to access restrooms or locker rooms in accordance with their gender identity, rather than their assigned sex at birth. And, just as non-transgender individuals are entitled to use a restroom appropriate to their gender identity without having to provide documentation or respond to invasive requests, transgender individuals must also be allowed to use a gender-identity appropriate restroom without being harassed.
- 9. Does the proposed ordinance change access to locker rooms?**
- a. No. The ordinance prohibits discrimination in public accommodations. This means if someone feels that he or she is denied access to a public locker room based on sexual orientation and/or gender identity or expression, he or she could make a complaint and engage in a process of fact-finding that would prove or disprove the individual's claim of discrimination.
- 10. Does the proposed ordinance force public schools to change their policies around restrooms and locker rooms?**
- a. No. The Montana Code Annotated at MCA 7-1-111 (3) expressly denies local governments the power to regulate on matters relating to or affecting public schools. The proposed ordinance will have no effect on Missoula public schools.
- 11. Does the proposed ordinance give individuals the right to engage in criminal activities in public restrooms or locker rooms?**
- a. No. The proposed ordinance does not change criminal laws (local, state, or federal). Nothing in the proposed ordinance permits or requires access to any place of public accommodation for the purpose or intent of engaging in criminal conduct.
- 12. Do I currently have the right to refuse to rent to someone if I don't approve of something about them?**
- a. Only in a narrow set of circumstances. Landlords are engaging in the public marketplace and in doing so are subject to both state and federal anti-discrimination laws. While landlords retain the right to make reasonable requirements with respect to references and credit, they may not make rental decisions based on actual or perceived race, religion, sex, marital or familial status, color, national origin, ancestry, creed, physical or mental disability, or age. The proposed ordinance adds sexual orientation and gender identity or expression to the list of groups protected. Additionally, according to the Montana Code Annotated, the rental of sleeping rooms in a private residence designed as a single dwelling unit in which the owner also resides may rent to whomever they choose, provided that the owner rents no more than three sleeping rooms within the residence.

Drafted by Missoula City Council members Stacy Rye and Dave Strohmaier with advice from City Attorney Jim Nugent and Niki Zupanic, ACLU of Montana Public Policy Director.