

GENDER IDENTITY/GENDER EXPRESSION MYTHS VS. FACTS

1 MYTH

The New York City Human Rights Law was amended in 2015 to include protections for gender identity and gender expression.

The de Blasio administration released legal enforcement guidance in 2015 to help New Yorkers gain a better understanding of their rights and responsibilities under the NYCHRL.

FACT

The New York City Human Rights Law (NYCHRL) was amended in 2002.

2 MYTH

If a man pretends to be a woman so he can use the women's room (or vice versa) in order to harass members of the opposite sex, there is no legal recourse for the victims of the harassment.

That being said, harassment, stalking, and other types of criminal activity are still illegal; permitting individuals to use the bathroom consistent with their gender identity and expression does not change that. If someone of any gender commits a crime in a single-sex facility, they are subject to prosecution, as well as possible charges under the NYCHRL.

FACT

Since the law was passed in 2002, there have been no documented cases of men in NYC pretending to be women in order to harass women in the bathroom.

3 MYTH

Transgender women are not "real" women, and transgender men are not "real" men.

If someone's gender identity is female, then that person is a woman – regardless of what her birth sex was – and she should be treated as a woman. Similarly, if someone's gender identity is male, then that person is a man, and he should be treated as a man.

FACT

Gender identity is not based on one's sex assigned at birth.

4 MYTH

The gender identity/gender expression statutes of the NYC Human Rights Law protect only transgender individuals.

This includes transgender and gender non-conforming people, as well as cisgender (non-transgender) individuals. For example, a restaurant owner may not require only female bartenders to wear make-up or only male servers to wear ties. The NYCHRL also protects people from discrimination based on gender stereotypes or norms, regardless of their gender identity or expression. For example, a cisgender man may not be refused entrance to the men's locker room because he appears effeminate or has long hair.

FACT

The NYCHRL protects all people against discrimination based on gender identity and expression.

5 MYTH

The New York City Human Rights Law allows men to enter the women's bathroom and vice versa.

The NYCHRL allows individuals to use the bathroom that is consistent with their gender identity.

FACT

If an individual identifies as a man, he is not permitted to use the women's room.

6 MYTH

Allowing transgender people to use facilities consistent with their gender identity threatens women and children, and will increase the likelihood of violence and crime in those facilities.

There is no evidence to suggest that allowing individuals access to the facilities that align with their gender identity increases incidence of violence. It ostracizes transgender people if we credit the misperception that they are a threat. Worse, it takes focus away from the work we can do to keep everyone safe.

FACT

Crime statistics show that transgender people are disproportionately more likely to be the victims, not the perpetrators, of violence in bathrooms, locker rooms, etc.

7 MYTH

Businesses cannot adopt their own policies on use of their facilities.

For instance, if the business is concerned about peeping, it can institute a "No Loitering" rule. Other examples include making all single-occupancy restrooms unisex; or requiring that restrooms are locked and anyone needing to use them needs to see the receptionist for a key.

FACT

The NYCHRL does not prevent businesses from adopting policies delineating acceptable behavior for the use of their facilities, provided that the policies are not discriminatory.

8 MYTH

If the clients/students/customers at an agency/school/business object to transgender people using the facility of their choice, the agency/school/business should change its policies to satisfy those objecting.

For example, hospitals may not agree to replace a nurse of a specific race with someone of a different race. A restaurant owner that refuses to hire a Muslim greeter, because some patrons claim it makes them uncomfortable, violates the NYCHRL. Agreeing to the unfounded fears and misconceptions around transgender inclusive policies is unlawful and perpetuates discrimination. The Commission can help covered entities educate their clients and customers about how inclusion creates a safer space for everyone.

FACT

An organization cannot engage in discriminatory practices under any circumstance. Customer preference or discomfort is never a justification for discrimination.