

Transgender Education Network of Texas

Position Statement

Plano, TX Equal Rights Ordinance

As an established nonprofit organization the Transgender Education Network of Texas has a history of working for and with the transgender population through education and advocacy in social, business, legal, governmental, faith based, and all other areas of the transgender life. Because of the conflicting information circulated concerning the Plano, TX Equal Rights Policy we feel a responsibility to release the information we have discovered, reflections on our discoveries, and this statement of our position.

FACTS DISCOVERED

1. Neither the Gay and Lesbian Alliance of North Texas (GALA) nor Equality Texas were involved in the actual wording of this policy. GALA representatives, one of which was a board member of Equality Texas, were contacted by Plano city officials and asked for input concerning the policy. They were not asked to be involved in the actual writing of the policy, nor did they examine the policy prior to its presentation and approval by the Plano City Council.
2. The policy is largely protective of transgender rights in the areas of Public Accommodations, Housing, and Employment.
3. The Policy does not and cannot interfere, change, or negate any State or Federal non-discrimination policy or law. The Policy states that if a “claim for discrimination is within the jurisdiction of a federal or state agency, the complainant shall be referred by the City to the appropriate public agency.” There is even a provision that if the state or federal agency does not look into the matter the matter may be submitted once again to the city who will then look into it.
4. While religious organizations, political organizations, non-profit organizations, educational institutions, government departments, agencies, or political subdivisions, and private clubs are excluded from the city ordinance they are still held to any state or federal laws.
5. The ordinance does state, “It shall not be unlawful to deny the opposite sex (defined in the ordinance as meaning gender and the biological differences between men and women) access to facilities inside a public accommodation segregated on the basis of sex for privacy such as restrooms, shower facilities, locker rooms, dressing rooms or any similar facility.”

REFLECTIONS

1. TENT does think it was unwise of the City of Plano to not solicit input on this ordinance from specific transgender organizations or individuals.

2. TENT feels that the intent of the City Council in passing this Policy was to establish a non-discrimination policy that protected everyone, including the transgender community, while not infringing upon the rights of others.
3. TENT does feel that the bathroom exclusion is problematic for both the transgender community and the private business owners. TENT also sees this exclusion as discriminating against the transgender community by not recognizing their authentic self. However, since the ordinance states that this is to be determined on the biological differences between men and women the question becomes: How does the business make this determination? The Plano Police Department has confirmed that touching another person's genitals without their permission is assault and would be handled as such. This would seem to make this exclusion difficult to enforce unless a person overtly appears to be of the opposite gender or reveals themselves as such.
4. On the restroom exclusion as it applies to employment TENT has discovered that while the employer can lawfully designate the restroom the employee is expected to use while working, the policy states that "it is unlawful for an employer to discriminate against any person in any way that would otherwise adversely affect a person's status as an employee."
5. TENT acknowledges that the exclusion of non-profit organizations does create a difficulty for transgender individuals seeking emergency shelter following acts of violence, rape, and other critical need services. The new policy does not change the manner in which these non-profits have acted in the past. They have had and still have the option of refusing the transgender population and referring them to an agency better equipped to deal with the transgender individual, which has been their policy in the past. The answer to this seems to be cultural competency education focused on transgender and gender non-conforming communities, and suggestions on how these non-profits might serve such communities, rather than a law that forces nonprofits to serve.
6. TENT did speak with the Chief of Police of Plano and were informed that their police policy regarding the transgender community was modeled after California policy. We were also told that the police department treated individuals according to the gender by which that individual identified themselves.
7. TENT did discover that if the ERO is not defeated it can be amended in part to correct incorrect wording, do away with onerous exclusions, and expand equal rights to the transgender community.

STATEMENT OF POSITION

The Transgender Education Network of Texas does not appreciate the fact that an ordinance was written with the intent of adding gender identity protection without input from the transgender and gender non-conforming community. We find the restroom exclusion confusing and not acceptable. We find the exclusion of non-profits allowing them to deny important and often necessary services to the transgender and gender non-conforming

community lacking. However, we do recognize the intent of the city to provide protection to the transgender and gender non-conforming community that was previously not provided. We do acknowledge that this new policy was not an amendment to their existing policy, but replaced it and therefore the repeal of the policy would leave Plano with no Equal Rights Policy. We also recognize that the vote to repeal this existing policy would, in all probability, make it almost impossible to get a policy even this inclusive passed in the future. If the ERO withstands the Plano vote and remains the law in Plano, TENT is committed to actively pursuing amendment of the Ordinance so that offensive language and discriminatory exclusions are removed.

Therefore, considering all these facts, the Transgender Education Network of Texas is opposed to the Plano Equal Rights Ordinance, but is against the repeal of the Plano Equal Rights Ordinance.