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## WHY ARE WE HERE?



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"A core belief of our values as Americans is the idea that every person deserves a fair chance to secure safe and stable housing. Your race, how you get around, the size of your family, whether you come from another country, if you are a man or a woman, or whatever your religious beliefs are should never hinder your housing goals."

HUD Secretary Julián Castro



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## FIGHTING FOR FAIR HOUSING

- Not Only HUD's Responsibility
- Local Communities
- Housing Advocates
- Housing Managers and Organizations
- Landlords
- Real Estate Agents
- Office Secretary
- Everyone's responsibility to promote Fair Housing



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## What Will Be Covered?

1. Fair Housing Act
2. Protected Classes
3. What's Covered, What's Not Covered
4. 55+ Housing
5. Disability Related Issues
6. Reasonable Accommodations & Modifications
7. Assistance Animals



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## Office of Fair Housing and Equal Opportunity (FHEO)

- The mission of the Office of Fair Housing and Equal Opportunity (FHEO) is to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities by leading the nation in the enforcement, administration, development, and public understanding of federal fair housing policies and laws.



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### FHEO Authorities

- **Fair Housing Act, as amended**
  - Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability.
- **Title VI of the Civil Rights Act of 1964**
  - Title VI prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
- **Section 504 of Rehabilitation Act of 1973**
  - Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.
- **Title II of the American with Disabilities Act of 1992**
  - Title II prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. HUD enforces Title II when it relates to state and local public housing, housing assistance and housing referrals.



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### FHEO Authorities Cont.

- **Section 109 of Title I of the Housing & Community Development Act of 1974**
  - Section 109 prohibits discrimination on the basis of race, color, national origin, sex or religion in programs and activities receiving financial assistance from HUD's Community Development and Block Grant Program.
- **Age Discrimination Act of 1974**
  - The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance.
- **Architectural Barriers Act of 1968**
  - The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.
- **Section 3 of the HUD Act of 1968**
  - Requires that recipients of certain HUD financial assistance, to the greatest extent possible, provide job training, employment, and contract opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.



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### Protected Classes under HUD's Jurisdiction

1. Race - African American; Caucasian; Hispanic/Latino/Latina; Asian, etc.
2. Color - Black, White (self-identification)
3. National Origin
4. Religion - Self-explanatory
5. Sex - Gender (male or female) does not include sexual orientation
6. Disability - A person with a physical or mental impairment that substantially limits one or more major life activities;
  - a parent or another person having legal custody of such individual or individuals; or
  - the designee of such parent or other person having such custody, with the written permission of such parent or other person.
7. Familial Status - means one or more individuals (who have not attained the age of 18 years) being domiciled with—
  - a parent or another person having legal custody of such individual or individuals; or
  - the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.



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## “Not Covered”

1. Criminal History
2. Military Status
3. Credit History
4. Marital Status
5. Income/Economic Status
6. Personal Animosity



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\* security deposit must be same for all

## WHO IS COVERED?

- HUD ASSISTED HOUSING PROVIDERS
- OTHER FEDERALLY ASSISTED HOUSING PROVIDERS
- PRIVATE HOUSING PROVIDERS
- PROPERTY MANAGEMENT COMPANIES
- REAL ESTATE AGENTS
- OWNERS



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USDA

Section 202: Elderly

Condo Boards

Section 8

HOA

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## What Housing Is Covered?

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by religious organizations and private clubs that limit occupancy to members.



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## What Is Prohibited?

- In the Sale and Rental of Housing: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling
- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting) or
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

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- In Mortgage Lending: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.



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## In Addition:

It is illegal for anyone to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.



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**Additional Protection if You Have a Disability**

- If you or someone associated with you:
  - Have a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
  - Have a record of such a disability or
  - Are regarded as having such a disability



\* requesting landlord to assist MHO person w/ collecting rent is a reasonable accommodation

**Your landlord may not:**

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.



can require tenant to screw fence to return property to normal condition due to tenant disability accommodation

- *Example:* A building with a no pets policy must allow a visually impaired tenant to keep a guide dog.
- *Example:* An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.
- However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.



\* can't know specifics/severity or nature of disability

## 55 AND OVER HOUSING

- AT LEAST 80% OF THE OCCUPIED UNITS ARE OCCUPIED BY ONE PERSON OVER AGE 55
- THE DEVELOPMENT INTENDS TO BE HOUSING FOR OLDER PERSONS
- AGE VERIFICATION PROCEDURES ARE IN EFFECT



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## THE HOUSING FOR OLDER PERSONS EXEMPTION ONLY RELATES TO FAMILY STATUS DISCRIMINATION

- Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:
  - A parent
  - A person who has legal custody of the child or children or
  - The designee of the parent or legal custodian, with the parent or custodian's written permission.



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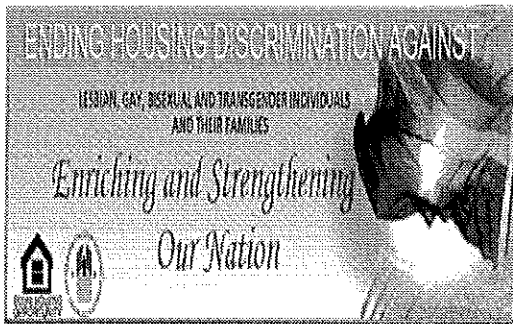
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➤ The Fair Housing Act does not specifically include sexual orientation and gender identity as prohibited bases. However, a lesbian, gay, bisexual, or transgender (LGBT) person's experience with sexual orientation or gender identity housing discrimination may still be covered by the Fair Housing Act.

➤ In addition, housing providers that receive HUD funding or have loans insured by the Federal Housing Administration (FHA), as well as lenders insured by FHA, may be subject to HUD program regulations intended to ensure equal access of LGBT persons.

➤ Many state, city, and county laws specifically include sexual orientation and gender identity as prohibited bases.



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### ■ Examples

➤ A gay man is evicted because his landlord believes he will infect other tenants with HIV/AIDS. That situation may constitute illegal disability discrimination under the Fair Housing Act because the man is perceived to have a disability, HIV/AIDS.

➤ A property manager refuses to rent an apartment to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the Fair Housing Act.



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➤ An underwriter for an FHA insured loan is reviewing an application where two male incomes are being used as the basis for the applicants' credit worthiness. The underwriter assumes the applicants are a gay couple and, as a result, denies the application despite the applicants' credentials. This scenario may violate HUD regulations which prohibit FHA-insured lenders from taking actual or perceived sexual orientation into consideration in determining adequacy of an applicant's income.



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## SECTION 504



- Section 504 provides that no qualified individual with a disability should, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.



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## Section 504 Regulations

- HUD's regulations for Section 504 apply to federally assisted programs and may be found in the Code of Federal Regulations at 24 CFR Part 8. There are also regulations that govern Section 504 in programs conducted by HUD which may be found at 24 CFR Part 9.



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## Discriminatory practices Section 504 prohibit?

- prohibits discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance
- housing provider may not deny or refuse to sell or rent to a person with a disability, and may not impose application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions that are different than those required of or provided to persons who are not disabled
- may not require persons with disabilities to live only on certain floors, or to all live in one section of the housing
- housing providers may not refuse to make repairs, and may not limit or deny someone with a disability access to recreational and other public and common use facilities, parking privileges, cleaning or janitorial services, or any services which are made available to other residents



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What steps must recipients take to ensure that information about their programs and services, and their communications with applicants and program participants, are accessible?

- The Section 504 regulations require recipients to take steps to ensure effective communication with applicants, beneficiaries, and members of the public (24 CFR 8.6). This may include, but is not limited to:
  - Conducting outreach in a manner that will reach persons with disabilities, such as working with state and local organizations that serve or represent persons with disabilities, and ensuring that information about their programs is disseminated in a manner that is accessible to persons with disabilities
  - Special communication systems (e.g., TTY for persons who are hearing or speech impaired, materials on tape or in Braille) can greatly increase the effectiveness of outreach and ongoing communication



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How can a recipient ensure that its existing housing or non-housing program meets the program accessibility provisions of the Section 504 regulations?



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- To the maximum extent feasible, distribute accessible units throughout projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice.
- Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. Recipients must also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.
- When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the unit's accessibility features; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.



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➤ When an applicant or tenant requires an accessible feature or policy modification to accommodate a disability, a federally assisted housing provider must provide the feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

➤ Recipients must ensure that activities and meetings are conducted in accessible locations.

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When a wheelchair accessible unit becomes available, should it be offered to the first applicant on the waiting list, or the first person with a disability who requires the accessible features?



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➤ The regulations provide that whenever a unit that meets the requirements of the Uniform Federal Accessibility Standards (UFAS) for a mobility-impaired person becomes available for occupancy, a recipient shall first offer the unit to a qualified individual with disabilities currently residing in a non-accessible unit in the same project or comparable projects, under common control, who requires the accessible features. If there are no such persons currently residing in the recipient's projects, the recipient shall then offer the unit to the next available qualified individual with disabilities on its waiting list, provided that the person requires the accessibility features of the unit. The recipient shall skip over non-disabled applicants on the waiting list to offer the unit to the next qualified individual who requires the unit's accessibility features.

➤ If no qualified applicant with disabilities requires the accessible features of a unit, and the recipient places a family where none of the family members have disabilities in that unit, the recipient may include language in the lease requiring this family to agree to move to a non-accessible unit, as soon as one becomes available that otherwise meets the family's needs.



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**Reasonable Accommodation  
(Section 504)**

A change, adaptation or modification to a policy, program, service, or workplace which will allow a **qualified person with a disability** to use and enjoy a dwelling unit, participate fully in a program, take advantage of a service, or perform a job



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**Right to Reasonable  
ACCOMMODATIONS  
(Fair Housing Act)**

- It shall be unlawful for any person to refuse to make reasonable accommodations in **rules, policies, practices, or services**, when such accommodation may be necessary to afford a resident with disabilities equal opportunity to use and enjoy a dwelling unit or common areas.



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**Examples of Reasonable  
ACCOMMODATIONS**

- Allowing service animal(s)\*
- Assigning or re-assigning a parking space
- Reading notices or providing notices in Braille, large print or audio tape

\*Please note: Service animals are not considered pets. Fees or deposits may not be charged.



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### Examples of Reasonable ACCOMMODATIONS

- Provide the rental agreement, sales agreement and other notices in clear and simple terms
- Provide a reminder at the beginning of the month that the rent is due, if requested



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### Reasonable Modifications

Physical or structural change(s) to existing interiors and exteriors of dwellings and to common and public use areas occupied, or to be occupied, by a **qualified person with a disability** in order to afford such person full enjoyment of the premises.



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### Right to Reasonable MODIFICATIONS

**Housing providers must:**

- allow reasonable modifications to dwelling units & common use areas (at the tenants expense) if necessary for the persons with disabilities to use the housing



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## Right to Reasonable MODIFICATIONS

### Housing providers may:

- require the tenant to pay into an escrow account the cost of restoring the unit to its original condition prior to modification if the modification will interfere with the next tenants use and enjoyment of the premises



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## Examples of Reasonable MODIFICATIONS

- Widening Doorways
- Allowing a ramp to be built
- Allowing grab bars in the bathroom
- Allowing the removal of carpet from the floors of the apartment
- Allowing a door bell flasher



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## Unlawful practices

- Refuse to permit reasonable modifications for persons with disabilities
- Refuse to make reasonable accommodations for persons with disabilities
- Fail to design and construct accessible/ adaptable housing



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*To file a complaint:*



**Discrimination Hotline**  
**1-800-440-8091 x-2493**  
**Spanish x-2047**

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