

ANTIDISCRIMINATION

COC GENERAL MEMEBRSHIP TRAINING



2 ACKNOWLEDGEMENTS

Information comes from a number of resources:

- HUD Website
- Office of Fair Housing
- Community Planning and Development Notices
- HUD –Sponsored and Other Training
- HUD – Frequently Asked Questions



3 SESSION OBJECTIVES

- Introduce Antidiscrimination Laws and Regulations
 - Statutes, Regulations, Executive Orders
- Build awareness of differences in State vs Federal Laws
- Identify HUD Programs that must comply with the rules
- Provide highlights of core features of the Laws
- Introduce HUD Office of Fair Housing and Equal Opportunity
- Build a connect between Anti-discrimination and Equal Access and VAWA regulations in HUD Programs



4 SEVERAL ACTIONS PROTECT PEOPLE FROM DISCRIMINATION

STATUTES

- Laws enacted by Congress, or other Legislative Entities

REGULATIONS

- Guidance and Regulatory Standards
- Rules from Departments or Programs

EXECUTIVE ORDERS

- Presidential or other Elected Executive Mandates



5 STATUTES – FEDERAL LAW

- The Fair Housing Act 1968
- Title VI of the Civil Rights Act of 1964
- Section 504 and 508 of Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990



6 STATUTES – FEDERAL LAW, CONTINUED

- Architectural Barriers Act of 1968
- Housing and Urban Development Act of 1974
- Violence Against Women Act – 2022 Reauthorization *
- Age Discrimination Act 1975
- Title IX of Education Amendments Act of 1973



7 LAWS – STATE

State Laws refine or expand protections.

- Definitions of persons in Protected Class status
- Examples of additional laws

Jesse Unruh Civil Rights Act

Employment and Workplace Discrimination



8 FEDERAL AND STATE PROTECTED CLASSES

FEDERAL

- Seven (7) Protected Statuses under Federal Law
- Race, color, religion, sex, national origin, familial status, and disability.

STATE OF CALIFORNIA

- Race, color, ancestry, national origin, religion, mental or physical disability, sex (including pregnancy), gender, sexual orientation, gender identity, gender expression, genetic information, marital status, familial status, source of income, or military or veteran status.
- State Law also limits when you can consider a person's criminal history.



9 STATE LAW – UNRUH CIVIL RIGHTS ACT

- In addition, the Unruh Civil Rights Act, which applies to business establishments, protects against housing discrimination related to age, citizenship, primary language, and immigration status, among other characteristics.
- California law also limits when, how, and to what extent housing providers can consider someone's criminal history.



10 REGULATIONS

- Equal Access Rule
- Affirmatively Furthering Fair Housing - Marketing
- HUD 'Interim' Rule - 24 CFR 578 – updated 2016-17
- Accessibility Standards – 24 CFR 40
- HUD Non-Discrimination and Equal Opportunity
- Information and Technology Standards and Guidelines
- 24 CFR parts 1, 5, 6, 8 and series 100+



|| EXECUTIVE ORDERS

- E.O. 11063 Equal Opportunity in Housing
- E.O. 12892 Leadership and Coordination - Affirmatively Furthering Fair Housing
- E.O. 12898 Environmental Justice in Minority and Low-Income Populations
- E.O. 13166 Improving Access – Limited English Proficiency
- E.O. 13217 Community-Based Alternatives for Individuals with Disabilities
- E.O. 13988 Preventing and Combatting Discrimination – Gender Identity and Sexuality



12 FAIR HOUSING AND EQUAL OPPORTUNITY RESPONSIBILITIES

- Eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities.
- FHEO has civil rights authority over the housing-related programs, services, and regulatory activities of state and local governments and recipients and subrecipients of financial assistance from HUD, including private busin



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ANTI-DISCRIMINATION - HUD ASSISTED PROGRAMS

Civil Rights Obligations of Public Entities and Recipients of Federal Financial Assistance:

- Federal laws prohibit discrimination in housing and community development programs and activities because of race, color, religion, sex, national origin, familial status, and disability.

Civil Rights Obligations extend to:

- recipients and subrecipients of HUD financial assistance,
- operations of state and local governments and their agencies, and
- certain private organizations operating housing and community development services, programs, or activities.



14 HUD PROGRAMS COVERED BY FAIR HOUSING AND EQUAL OPPORTUNITY (FHEO)

Community Development Block Grants (CDBG)

Emergency Solutions Grants (ESG)

HOME Investment Partnerships (HOME)

Homeless Assistance Programs - Continuum of Care

Other McKinney-Vento Programs)



15 HUD PROGRAMS COVERED BY FHEO, CONTINUED

Housing Choice Vouchers (Section 8)

Housing Opportunities for Persons with AIDS (HOPWA)

Public Housing

Supportive Housing for Persons with Disabilities (Section 811)

Supportive Housing for the Elderly (Section 202)



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KEY FEATURES AND CORE COMPONENTS



17 THE FAIR HOUSING ACT OF 1968

The Fair Housing Act prohibits this discrimination because of:

- race, color, national origin, religion,
- sex, familial status, and disability.

The Fair Housing Act protects people from discrimination when:

- they are renting or buying a home,
- getting a mortgage,
- seeking housing assistance, or
- engaging in other housing-related activities.



18 ANTI-DISCRIMINATION IN HUD ASSISTED PROGRAMS

Federal laws prohibit discrimination, including the denial of participation in and benefit of, the following examples of programs and activities:

- homelessness
- transitional housing
- permanent supportive housing
- the operations of social service organizations



19 ANTI-DISCRIMINATION IN HUD PROGRAMS, CONTINUED

- public housing, voucher programs
- other affordable housing programs
- community development funded facilities, etc.
- Recipients and other covered entities also must take certain affirmative steps within such programs and activities to provide equal housing opportunities.



20 FAIR HOUSING AND EQUAL OPPORTUNITY – CFR CITATIONS

HUD Interim Rule, 24 CFR 578.93

- Recipients and other covered entities also must take certain affirmative steps within such programs and activities to provide equal housing opportunities.

24 CFR 5.105

- The nondiscrimination and equal opportunity requirements



21 24 CFR § 578.93 FAIR HOUSING AND EQUAL OPPORTUNITY

- Recipients and subrecipients may exclusively serve a particular homeless subpopulation in transitional or permanent housing if the housing addresses a need identified by the CoC for the geographic area.
- Housing may be for specific subpopulations (i.e. domestic violence, families, etc.).



22 24 CFR § 578.93 Furthering Fair Housing

Affirmatively furthering fair housing.

- A recipient must implement its programs in a manner that affirmatively furthers fair housing, which means that the recipient must:
- Affirmatively market their housing and supportive services to eligible persons regardless of race, color, national origin, religion, sex, age, familial status, or handicap who are least likely to apply in the absence of special outreach, and maintain records of those marketing activities;



23 24 CFR § 578.93 CONTINUED

- Provide program participants with information on rights and remedies available under applicable federal, state and local fair housing and civil rights laws; and
- Recipients and subrecipients must maintain copies of their marketing, outreach, and other materials used to inform eligible persons of the program to document compliance with the requirements in 24 CFR § 578.93(c).



24 OTHER CFR CITATIONS - ACCESSIBILITY

- *Accessibility and integrative housing and services for persons with disabilities.* Recipients and subrecipients must comply with the accessibility requirements of:
- Fair Housing Act (24 CFR part 100),
- Section 504 of the Rehabilitation Act of 1973 (24 CFR part 8),
- Titles II and III of the Americans with Disabilities Act, and
- 28 CFR parts 35 and 36, as applicable
- 24 CFR 8.4(d), requires recipients to ensure that their program's housing and supportive services are provided in the most integrated setting appropriate to the needs of persons with disabilities.



DEFINITION of 'FAMILY'

For purposes of Fair Housing and Civil Rights,

Family includes:

any group of persons presenting for assistance together with or without children irrespective of age, relationship, or whether or not a member of the household has a disability.

This is not limited by marital status, actual or perceived sexual orientation, or gender identity,

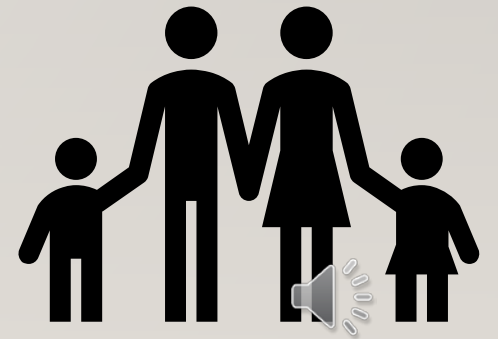
A child who is temporarily away from the home because of placement in foster care is considered a member of the family.



WHAT IS A HOUSEHOLD?

The definition of Household also is not restricted by the “actual or perceived, sexual orientation, gender identity, or marital status”:

- *Household* means all persons occupying a housing unit.
- The occupants may be a family, as defined in 24 CFR 5.403; two or more families living together; or any other group of related or unrelated persons who share living arrangements, regardless of actual or perceived, sexual orientation, gender identity, or marital status.



IMPACT OF THE DEFINITION OF FAMILY

- A family is any group of people who present together for assistance and identify themselves as a family, regardless of age or relationship or other factors, are considered to be a family and **must be served together as such**.



IMPACT OF THE DEFINITION OF FAMILY - CONTINUED

- A recipient or subrecipient receiving funds under the CPD Programs **cannot discriminate against a group of people presenting as a family based on the composition of the family.**
- Cannot restrict family to mean adults and children or just adults, the age of any member's family, the disability status of any members of the family, marital status, actual or perceived sexual orientation, or gender identity.



Prohibition against involuntary family separation.

- Families must not be forced to separate in order to access housing and services.
- The age and gender of a child under age 18 must not be used as a basis for denying any family's admission to a project that receives funds under this part.



30 THE REHABILITATION ACT OF 1973



Section 504 of the Rehabilitation Act provides that:

- no qualified individual with disabilities 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.



3 | THE REHABILITATION ACT OF 1973 – SECTION 504

Covers **all programs and activities** of recipients of HUD financial assistance, for example:

- Outreach and public contact, including contact with program applicants and participants.
- Eligibility criteria.
- Application process and Admission to the program.
- Tenancy, including eviction.
- Service delivery.
- Physical accessibility of facilities.
- Employment policies and practices.



32 THE CIVIL RIGHTS ACT OF 1964, TITLE VI

42 U.S.C. § 2000D ET SEQ.

- Title VI is part of the landmark Civil Rights Act of 1964.
- It prohibits discrimination based on race, color, and national origin in activities receiving federal financial assistance.
- Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly in the **types, quantity, quality or timeliness** of program services, aids or benefits that they provide or the manner in which they provide them.



33 THE CIVIL RIGHTS ACT OF 1964, TITLE VI

42 U.S.C. § 2000D ET SEQ.

- Applies to intentional discrimination, procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin.
- Persons with limited English proficiency must be afforded a meaningful opportunity to participate in programs that receive Federal funds.
- Policies and practices may not deny or have the effect of denying persons with limited English proficiency equal access to Federally-funded programs for which they otherwise qualify for.



34 THE AMERICANS WITH DISABILITIES ACT (ADA) TITLE II

- The ADA is a major law addressing the civil rights law for persons with disabilities.
- Title II of the ADA prohibits discrimination on the basis of disability in all programs, services, and activities provided or made available by public entities such as state and local governments and special purpose districts.



35 AMERICANS WITH DISABILITIES ACT - TITLE II & TITLE III



- Nondiscrimination laws provide housing protections for individuals with disabilities.
- These protections apply in most private housing, state and local government housing, public housing and any other federally-assisted housing programs and activities.
- Titles II and III of the Americans with Disabilities Act prohibit discrimination on the basis of disability in all programs, services, and activities of public entities and by private entities that own, operate, or lease places of public accommodation.



36 ADA TITLE II, CONTINUED

- ADA applies when the housing is provided or made available by a public entity regardless of whether the entity receives federal financial assistance.
- Housing covered by Title II of the ADA includes housing operated by public housing agencies that meet the ADA's definition of "public entity."
- For example, housing operated by States or units of local government, such as housing on a State university campus.



37 ADA - TITLE III

Title III of the ADA prohibits:

- private entities that own, lease (to and from), and operate places of public accommodation from discriminating on the basis of disability and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards.



38 ADA - TITLE III

ADA Title III Applies to

- Public accommodations at housing developments including any public areas that are open to the general public, such as a rental office.
- Public accommodations include, for example, shelters and social service centers.



ADA TITLE II & III: WHO IS A PERSON WITH A DISABILITY?

- Federal nondiscrimination laws define a person with a disability to include
- (1) any individual with a physical or mental impairment that substantially limits one or more major life activities; or
- (2) individual with a record of such impairment; or
- (3) individual who is regarded as having such an impairment.



A physical or mental impairment includes, but is not limited to:

- conditions such as orthopedic, visual, speech and hearing impairments,
- cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis,
- cancer, heart disease, diabetes, Human
- Immunodeficiency Virus (HIV),
- Developmental disabilities, mental illness, drug addiction, and alcoholism.



RECOGNIZING DISABILITY



How do you know if someone has a disability (altered ability)?

- There may be readily apparent conditions.: mobility limitations, blindness, deafness, physical impairments which are supported by assistive devices.
- Or there are symptoms or behaviors indicating a condition: stroke, Parkinson's disease, cerebral palsy, epilepsy,
- Others may be invisible. intellectual impairments (including some types of autism), neurological impairments (e.g., or brain injury), mental illness, or other diseases or conditions.



RECOGNIZING DISABILITY, CONTINUED

The common factor is that each condition impacts major life activities or bodily functions.

- The term “major life activities” includes those activities that are important to daily life.
- Major life activities include, for example, walking, speaking, hearing, seeing, breathing, working, learning, performing manual tasks, and caring for oneself.
- There are other major life activities that are not on this list.



43 RIGHTS OF A PERSON WITH A DISABILITY

- It is illegal for an otherwise qualified individual with a disability, solely because of his or her disability, to be excluded from the participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- An individual with a disability, who is also otherwise qualified for the program, service or activity, is covered under **Section 504**.



44 RIGHTS OF A PERSON WITH A DISABILITY, CONTINUED

To be qualified means the individual meets the essential eligibility requirements, for example:

- Income requirements for tenancy, if the program is a housing program, provided those eligibility requirements are not discriminatory, and
- Need can be met with or without reasonable accommodations, or
- Through auxiliary aids or services needed for effective communication



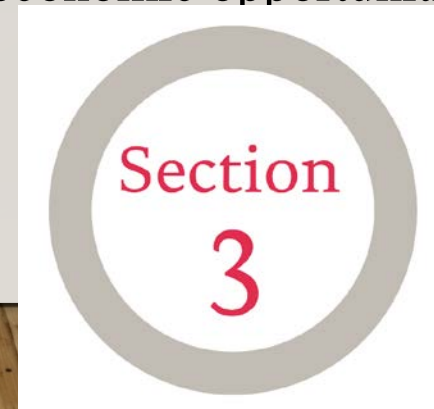
DISABILITY REASONABLE ACCOMMODATIONS AND MODIFICATIONS

- **REASONABLE ACCOMMODATIONS AND MODIFICATIONS**
- Federal nondiscrimination laws require housing providers to grant requests for reasonable accommodations and modifications in housing, programs, and activities.
- A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations. Please note that the ADA often refers to these types of accommodations as “modifications.”



46 SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT

- **What is Section 3?**
- It is a means by which HUD fosters local economic development, neighborhood economic improvement, and individual self-sufficiency. Section 3 is the legal basis for providing jobs for residents and awarding contracts to businesses in areas receiving certain types of HUD financial assistance.
- Under Section 3 of the HUD Act of 1968, wherever HUD financial assistance is expended for housing or community development, to the greatest extent feasible, economic opportunities will be given to Section 3 residents and businesses in that area.



47 VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2022 (VAWA 2013)

- The law significantly expanded housing protections to victims of domestic violence, dating violence, sexual assault, and stalking across HUD's core housing and homelessness programs. To implement the law's new provisions, HUD issued a final rule, which took effect on December 16, 2016.
- If individuals otherwise qualify for assistance they cannot be denied admission or denied assistance because they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.



48 VAWA 2022 MAJOR CHANGES

- VAWA reauthorization in the Fall of 2022 brings major updates to VAWA and compliance by CoC recipients and sub-recipients.
- The definition of what is included in domestic violence, the eligibility criteria for HUD CoC programs, mechanisms for ensuring awareness of VAWA rights and protections, compliance standards, and new guidance were recently released.



49 VAWA 2022 MAJOR CHANGES

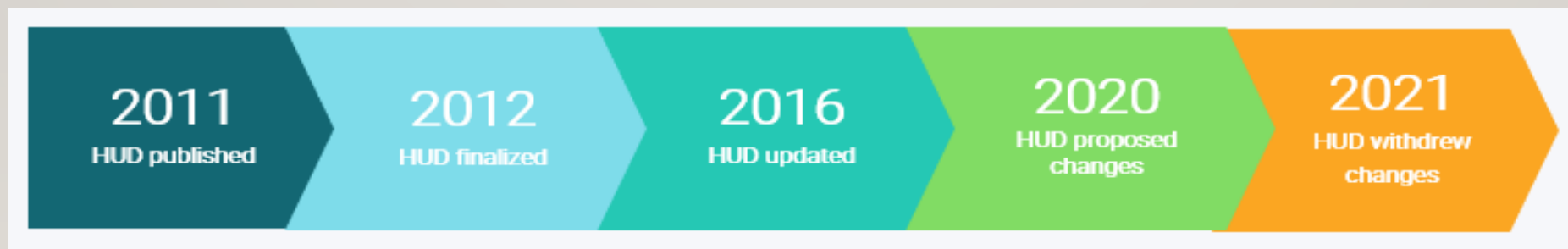
- HUD's investment in ensuring CoC recipients and subrecipients are aware and prepared to effectively implement VAWA 2022 is extensive: a dedicated website, webinars and Q &A sessions, new forms, new eligible activities in CoC funding, etc.
- There is separate training dedicated to VAWA 2022 and CoC Implementation.



THE EQUAL ACCESS RULE

The Equal Access Rule emphasizes protections and remedies for discrimination based on gender, gender identity.

Over the past decade, it has been updated on several occasions. The 2020 Modifications are not in effect.



BACKGROUND: EQUAL ACCESS RULE, 2016 CHANGES

BARRIERS TO ACCESS

- HUD determined that the 2012 Equal Access Rule did not adequately address the significant barriers faced by transgender and gender nonconforming persons when accessing temporary, emergency shelters and other facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or bathing facilities.
- Specifically, HUD found that transgender and gender nonconforming persons continue to experience significant violence, harassment, and discrimination in attempting to access programs, benefits, services, and accommodations.



BACKGROUND: EQUAL ACCESS RULE, 2016 CHANGES

REMEDY: AMENDED DEFINITION

The 2016 rule amends HUD's definition of “gender identity” to:

- more clearly reflect the difference between actual and perceived gender identity, and
- eliminate the prohibition on inquiries related to sexual orientation or gender identity, so that
- service providers can ensure compliance with this rule.



53 EQUAL ACCESS RULE

- The Equal Access Rule is a focus in HUD Continuum of Care Program implementation.
- Tools, strategies, and guidelines support implementing the Equal Access Rule.
- One key concept is that the Gender Identity which is determined by the individual, must be honored and drives decision-making.



54 EQUAL ACCESS RULE, CONTINUED

- Core principles include: The individual's self identification is paramount in decision-making.
- A person covered by the Equal Access Rule cannot be held accountable for someone else's discomfort. Providers cannot further marginalize vulnerable persons.
- There is a separate, in-depth training on the Equal Access Rule available.



55 SESSION CONCLUSION

- This session introduced major rules focused on antidiscrimination,
 - Fair Housing and opportunities for Equal Access to housing and services.
 - Introduced the importance of the Equal Access Rule and VAWA -2022.
 - Offered key ideas in the laws.
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- Although very focused on laws and regulations, we hope this was of benefit to you as you work to implement HUD Housing and Services program.

