EQUAL ACCESS and HUD PROGRAMS

APPLYING the RULES to ENSURE ACCESS to HOUSING for ALL

Practical Applications and Helpful Hints
Supplement to the Annual Fair Housing Training

Acknowledgements

Credits for material in this presentation

- ❑ HUD Exchange
- ❑ HUD Equal Access Self- Assessment Tool – revised 2021
- ❑ NAEH – Increasing Access to Shelter
- ❑ Legal Aide Society – Fair Housing Guide
- ❑ Urban Initiatives
- ❑ 24 CFR part 501

Purpose and Outline

Purpose

❑ **Emphasize key components of Fair Housing -**
   ❑   Equal Access Rule
   ❑   Treatment of families

❑   Offer practical application to reinforce implementation

❑   Introduce tools for agency use

Associated Training & Information

- Fair Housing Training – October 2021

- CES Policies and Procedures

- CoC Standards

- Anti-Discrimination Rules

- Sample Anti-Discrimination Policies Practices

A Wealth of Rules

- The Fair Housing Act
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- Section 3 of the Housing and Urban Development Act
- State of California – Expanded Definition - Protected Classes
- Equal Access Rule 2012 revised 2016, 2020, 2021
- Violence Against Women Act
- 24 CFR part 578 and 501

Who is Protected?

▫ Federal: Discrimination prohibited because of race, color, religion, sex, national origin, familial status, and disability.

• State adds: ancestry, religion, mental or physical disability, sex (including pregnancy), sexual orientation, gender identity, gender expression, genetic information, familial status, source of income, or military or veteran status.

• Unruh Civil Rights Act: also protects against housing discrimination related to age, citizenship, primary language, and immigration status, among other

• California law Limits housing provider consideration of criminal history.

Gender Terminology
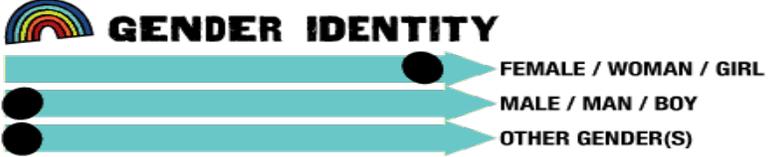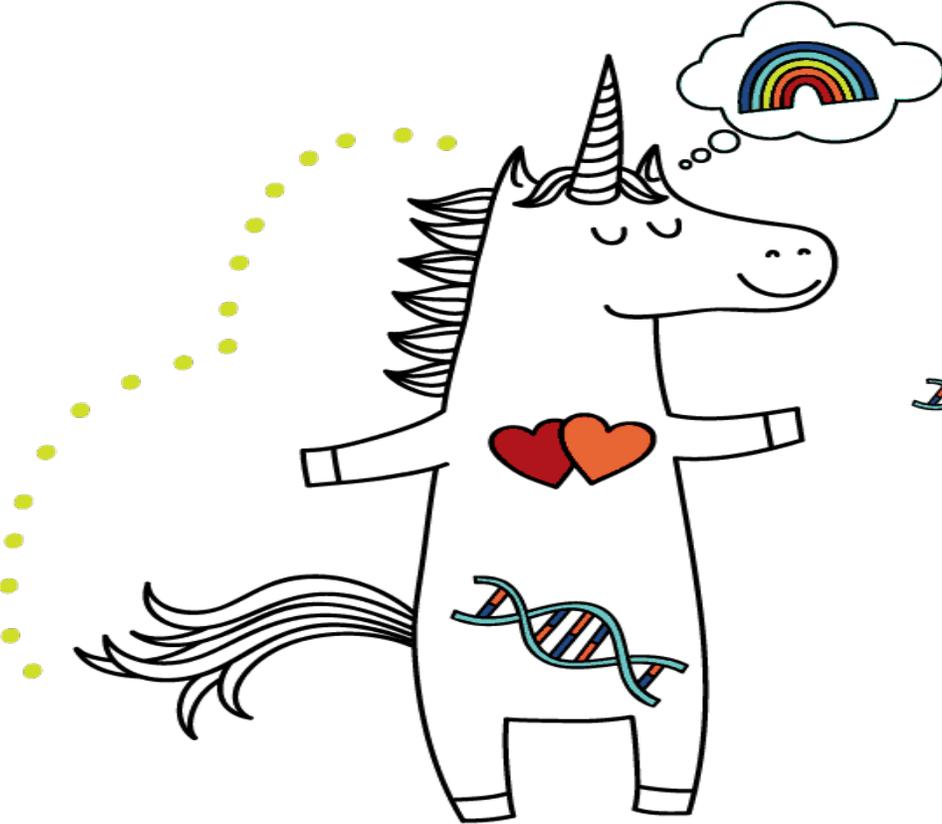
Focus on Anti- Discrimination: Equal Access

- **Focus on Equal Access Rule in shelter environment and CoC programs**

- **CES and Equal Access**

- **Implementation**
  - **Assessment**
  - **Decision-making**
  - **Helpful hints**

Equal Access for All

Gender issues

- HUD programs are ***open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status***

- Individuals have access to housing according to their gender identity.

- No requirements to "prove" gender identity.

- Equal Access must be provided in all HUD assisted programs.

- Providers must reflect policies and procedures to mirror the requirement

Equal Access: Treatment of Families

Household Composition

      A family is 'who the group' identifies

      Blood relationship, legal marriage not required for joint housing/

Families – Household composition

- No involuntary separation of family members
- Also included in CES guidelines
- Family re-unifying with child(ern) who are temporarily living apart for parent(s) are a family, including the children outside the home.

"IN YOUR POCKET" GUIDE

- Engage respectfully

- Empower all – Consumer Choice and Perspective

- Inform everyone – Staff, volunteers, contactors, clients, constituents

- Identity starts with "I" (the client) – their Individual perspective

- No involuntary separation (also in CES guide)

- Manage harassment and conflict – focus on aggressor; do not further isolate

IMPLEMENTING EQUAL ACCESS

Implementing the Equal Access Rules can be a challenging responsibility.

HUD, technical assistance providers, and national organizations have developed some tools to help support agencies in this process.

Some support tools:

      Self–Assessment

      Decision-Tree

      Case Examples Q & A

Introduce Tools

- Equal Access Self- Assessment – Revised Oct. 2021
- Equal Access Decision-Tree
- Case Examples Q & A
- Gender Unicorn
- Gender Terminology
- HUD Advisory Poster

SELF-ASSESSMENT TOOL

This tool:
- ➤ Helps homeless housing and service providers assess their compliance with rules
- ➤ Is intended for agency INTERNAL USE – not as a monitoring tool
- ➤ Is Self-guided
- ➤ Points out regulations and best practices
- ➤ Has an index of definitions
- ➤ Offers an easy-to follow chart, guides agency staff through key aspects of:
  - ▫ Agency Policy
  - ▫ Harassment Guidelines
  - ▫ Resolving Violations
  - ▫ Ensuring Confidentiality
  - ▫ Addressing Safety

Self-Assessment Tool

Item #	Attribute	Agency/Project has a Written Policy	Staff, Volunteers and Contractors are Trained to Comply with Written Policy	All Clients are Aware of the Agency/Project Policy			
7	If the Agency operates a family shelter, the Agency does not expel or decline a client of any gender if they are otherwise eligible for services.	Develop a policy statement and procedures to ensure that staff, volunteers and contractors do not expel or decline a client of any gender if they are otherwise eligible for services.	Train staff, volunteers and contractors on the agency's commitment to not expel or decline a client of any gender if they are otherwise eligible for services.	Publicize the agency's commitment to serve all families, regardless of gender, in project literature."			
Harassment Policy							
13	Agency includes transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.	In the list of protected groups within the agency's Policies and Procedures, add transgender and non-gender conforming. If your agency does not list protected groups, add a list and include this population.	Train staff, volunteers and contractors on the agency's inclusion of transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.	Educate clients on the agency's inclusion of transgender and non-gender conforming in the list of groups vulnerable to harassment and/or list of protected groups.			
Managing and Resolving Violations							
20	Agency has policy that if a client needs to be moved for harassment and safety concerns, the agency will have a preference to move the client with a bias.	Develop a policy statement and procedures that ensure if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Train staff, volunteers and contractors on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Educate clients on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.			

EXAMPLE – SELF ASSESSMENT

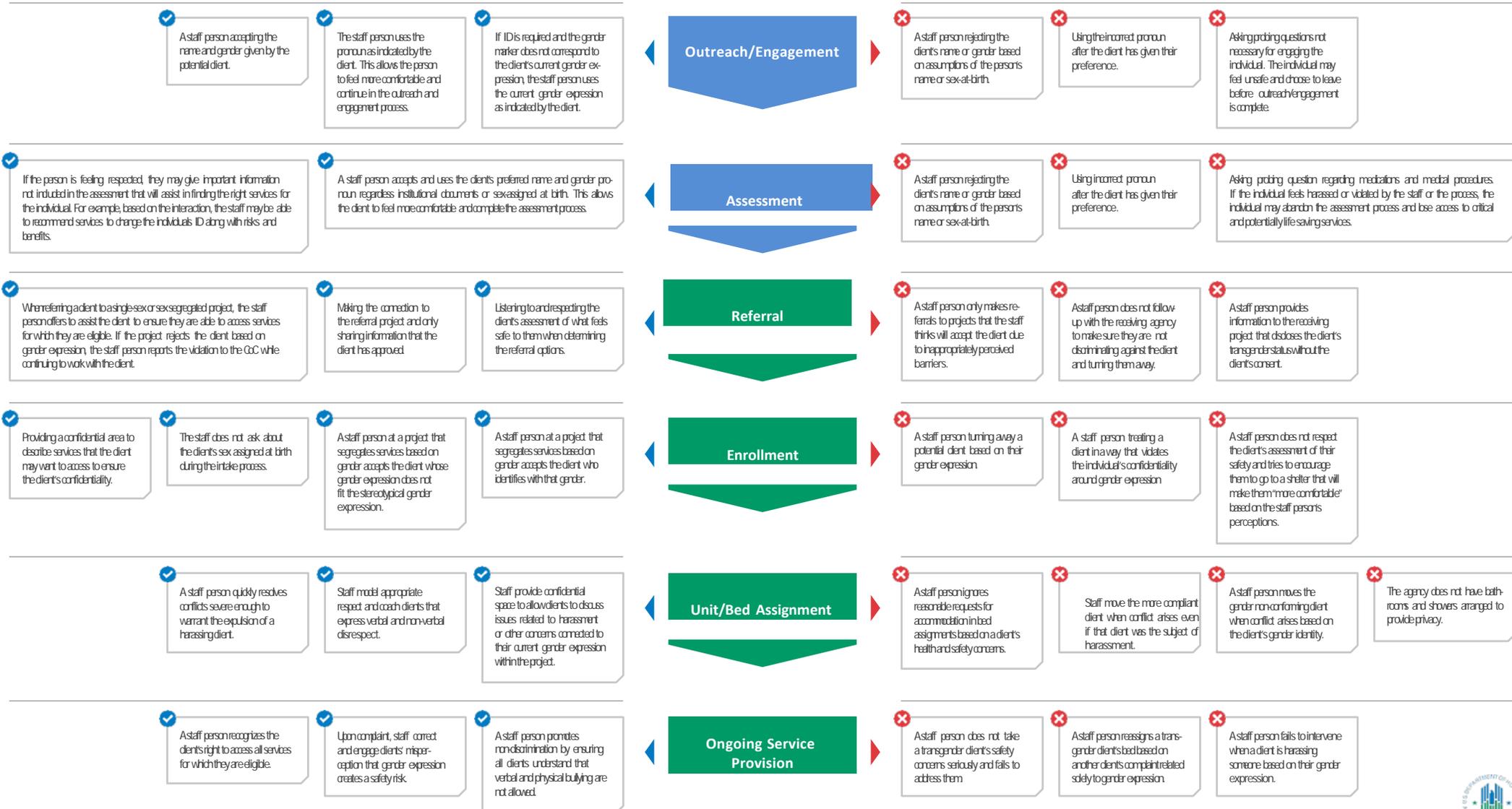| AREA OF CONCERN	ATTRIBUTE	WRITTEN POLICY	TRAINING – Staff, Volunteer, Contractor	Clients Informed and Aware
Managing and Resolving Harassment	Agency has policy that if a client needs to be moved for harassment and safety concerns, the agency will have a preference to move the client with a bias (the aggressor)	Develop a policy statement and procedures that ensure if a client needs to be moved due to harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Train staff, volunteers and contractors on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.	Educate clients on the agency's policy that if a client needs to be moved due harassment and/or safety concerns, the agency will have a preference to move the client with a bias.

Equal Access – Decision Tree

➤ Gives concrete examples of behaviors that either encourage
   or discourage equal access
➤ Has a easy-to read format
➤ Walks through each phase of the process
      Outreach & Engagement
      Assessment
      Referral
      Program Enrollment
      Assignment to housing unit / bed
      Offering On-going services and supports

Supporting Equal Access Across the Full Spectrum of Services

Encouraging ✓ | Outreach/Engagement | Discouraging ✗

Encouraging:
- A staff person accepting the name and gender given by the potential client.
- The staff person uses the pronoun as indicated by the client. This allows the person to feel more comfortable and continue in the outreach and engagement process.
- If ID is required and the gender marker does not correspond to the client's current gender expression, the staff person uses the current gender expression as indicated by the client.

Discouraging:
- A staff person rejecting the client's name or gender based on assumptions of the person's name or sex-at-birth.
- Using the incorrect pronoun after the client has given their preference.
- Asking probing questions not necessary for engaging the individual. The individual may feel unsafe and choose to leave before outreach/engagement is complete.

Assessment

Encouraging:
- If the person is feeling respected, they may give important information not included in the assessment that will assist in finding the right services for the individual. For example, based on the interaction, the staff may be able to recommend services to change the individual's ID along with risks and benefits.
- A staff person accepts and uses the client's preferred name and gender pronoun regardless institutional documents or sex-assigned at birth. This allows the client to feel more comfortable and complete the assessment process.

Discouraging:
- A staff person rejecting the client's name or gender based on assumptions of the person's name or sex-at-birth.
- Using incorrect pronoun after the client has given their preference.
- Asking probing question regarding medications and medical procedures. If the individual feels harassed or violated by the staff or the process, the individual may abandon the assessment process and lose access to critical and potentially life saving services.

Referral

Encouraging:
- When referring a client to a single-sex or sex-segregated project, the staff person offers to assist the client to ensure they are able to access services for which they are eligible. If the project rejects the client based on gender expression, the staff person reports the violation to the CoC while continuing to work with the client.
- Making the connection to the referral project and only sharing information that the client has approved.
- Listening to and respecting the client's assessment of what feels safe to them when determining the referral options.

Discouraging:
- A staff person only makes referrals to projects that the staff thinks will accept the client due to inappropriately perceived barriers.
- A staff person does not follow-up with the receiving agency to make sure they are not discriminating against the client and turning them away.
- A staff person provides information to the receiving project that discloses the client's transgender status without the client's consent.

Enrollment

Encouraging:
- Providing a confidential area to describe services that the client may want to access to ensure the client's confidentiality.
- The staff does not ask about the client's sex assigned at birth during the intake process.
- A staff person at a project that segregates services based on gender accepts the client whose gender expression does not fit the stereotypical gender expression.
- A staff person at a project that segregates services based on gender accepts the client who identifies with that gender.

Discouraging:
- A staff person turning away a potential client based on their gender expression.
- A staff person treating a client in a way that violates the individual's confidentiality around gender expression
- A staff person does not respect the client's assessment of their safety and tries to encourage them to go to a shelter that will make them "more comfortable" based on the staff person's perceptions.

Unit/Bed Assignment

Encouraging:
- A staff person quickly resolves conflicts severe enough to warrant the expulsion of a harassing client.
- Staff model appropriate respect and coach clients that express verbal and non-verbal disrespect.
- Staff provide confidential space to allow clients to discuss issues related to harassment or other concerns connected to their current gender expression within the project.

Discouraging:
- A staff person ignores reasonable requests for accommodation in bed assignments based on a client's health and safety concerns.
- Staff move the more compliant client when conflict arises even if that client was the subject of harassment.
- A staff person moves the gender non-conforming client when conflict arises based on the client's gender identity.
- The agency does not have bathrooms and showers arranged to provide privacy.

Ongoing Service Provision

Encouraging:
- A staff person recognizes the client's right to access all services for which they are eligible.
- Upon complaint, staff correct and engage clients' misperception that gender expression creates a safety risk.
- A staff person promotes non-discrimination by ensuring all clients understand that verbal and physical bullying are not allowed.

Discouraging:
- A staff person does not take a transgender client's safety concerns seriously and fails to address them
- A staff person reassigns a transgender client's bed based on another client's complaint related solely to gender expression.
- A staff person fails to intervene when a client is harassing someone based on their gender expression.

EXAMPLE at INTAKE

ENCOURAGING

- If identification is required and the gender designation doesn't 'match' what the client states,
the worker accepts and uses the identification expressed by the client.

DISCOURAGING

- The worker states that the identification indicates a specific gender, and asks probing questions "to resolve the conflicting information" or informs the client that they will need to record the 'correct' information in the official case file.

Case Example

If I operate a project using HUD funds that serves single women and children, do I need to serve men with children?

☐ Yes
☐ No
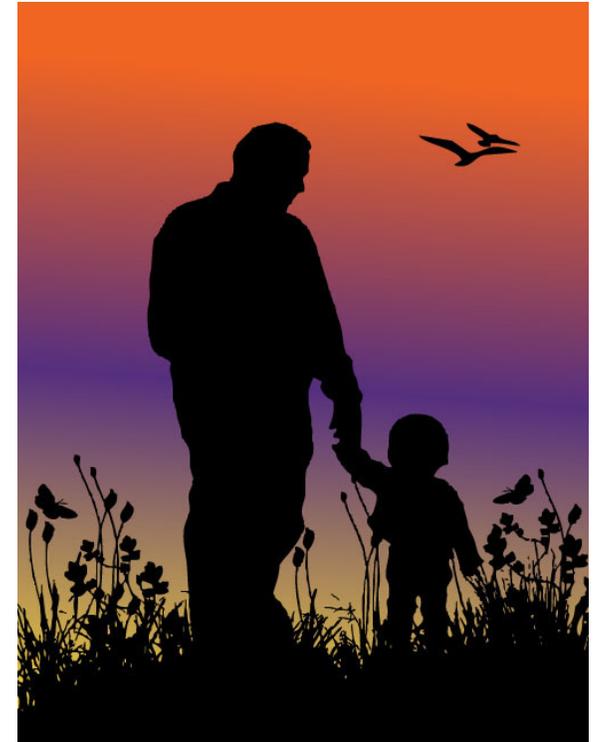
Case Example #1 - Answer

HUD SAYS... *YES!*

- HUD funded projects that serve families with minor children are not permitted to exclude families based on the gender of the head-of-household.

- A household with a head-of-household who is male, and otherwise eligible for the service, must be provided access to the same services, opportunities, and staff to which all households enrolled in the project have access.

- Projects <u>may</u> establish a requirement that they only serve households with minor children and exclude households comprised entirely of adults.

CASE EXAMPLE #3

- You operate a small facility with only two restrooms with showers.
- A transgender client asks which restroom they should use.
- Another client overhears the conversation, a becomes upset, expresses fear that the client will be 'spying' on them

- What do you say?

- What can you do?

CASE EXAMPLE #2 -ANSWER

➢ Assure both clients that you want to help them to be able to shower comfortably.

➢ Because access is based on self-declared gender identity – ask which shower would be more comfortable.

➢ Offer the upset client a chance to shower privately later.

➢ Increase privacy, when possible, by:
      Installing temporary or permanent curtains
      Installing locks, doors, or partitions to toilet stalls
      Create staggered shower schedules for everyone to ensure access and to enhance privacy

➢ Expand Access: Make single-use facilities all-gender, meaning anyone can use them

Reminder -

- When a person is accepted in temporary, emergency shelter, or another building with shared sleeping quarters or shared bathing facilities, must have equal access to all amenities.

- Providers **must** take non-discriminatory steps as may be necessary, reasonable, and appropriate to calm the concerns raised by all residents, and as needed, update its admissions, occupancy, and operating policies and procedures.

- **In no case may a provider's policies isolate or segregate transgender or gender nonconforming occupants.**

- Rule of thumb – Focus on calming or making changes with the aggressor

USING GENDER PRONOUNS

HUD POSTER

Make all constituents aware –
  Staff
  Volunteers
  Contractors
  Clients
  Community Members

Publically Post

https://www.hud.gov/sites/documents/LGBTFLYER.PDF
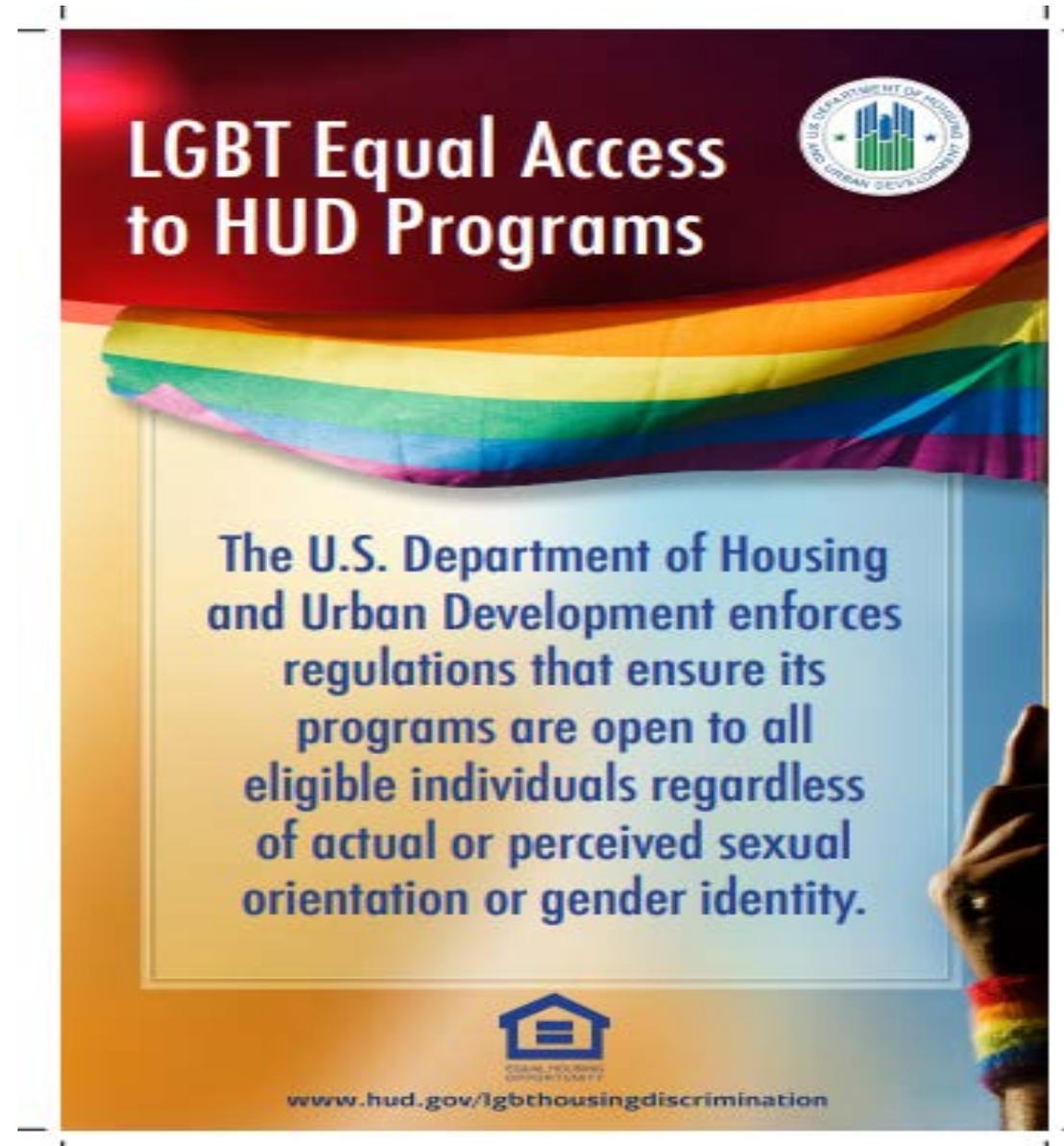
STATE-WIDE RESOURCE - ADVOCACY

Thank you!

SAN DIEGO
Regional Task Force
on the Homeless