

FAIR HOUSING & EQUAL ACCESS RULE

RESOURCES

CONSULT THE CoC RULE

CoC Program Interim Rule

– 578.93 Fair Housing & Equal Opportunity:

<https://www.govinfo.gov/content/pkg/CFR-2017-title24-vol3/xml/CFR-2017-title24-vol3-part578.xml#seqnum578>

RESOURCES AT A GLANCE

Fair Housing Landing Page:

https://www.hud.gov/program_offices/fair_housing_equal_opp

Limited English Proficiency Guidance:

<https://www.hud.gov/sites/documents/LEPMEMO091516.PDF>

Equal Access in Accordance With an Individual's Gender Identity in Community Planning and Development – 24 CFR Part 5:

<https://www.govinfo.gov/content/pkg/FR-2016-09-21/pdf/2016-22589.pdf>

This resource is prepared by technical assistance providers and intended only to provide guidance. The contents of this document, except when based on statutory or regulatory authority or law, do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

SUMMARY

The CoC Program is subject to a range of federal civil rights laws related to nondiscrimination requirements and to affirmative accessibility obligations. CoC Program recipients and subrecipients are strongly encouraged to become familiar with these requirements and with any applicable state or local civil rights laws. Please see the accompanying [one-pager on Non-discrimination Related to Disability](#). Additionally, [see sidebar links](#).

THE FAIR HOUSING ACT

The Fair Housing Act (the Act) prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status, and national origin. Each of these is a “protected class.” It applies to housing, regardless of the type of funding or ownership, including:

- Operated by private individuals or organizations that receive federal financial assistance;
- Owned or operated by state and local governments;
- Intended as short- or long-term residence (e.g., dormitory-style sleeping units, apartments, and single room occupancy units).

The Act prohibits discrimination based on membership in a protected class in a broad range of housing-related activities, including:

- Refusing to lease a unit or otherwise denying use of a dwelling;
- Discriminating in the terms, conditions, privileges, or in the provision of services or facilities in connection with a dwelling;
- Discriminating in financing, zoning practices, and new construction design.

While people with limited English proficiency are not a protected class, national origin is a protected class and it may be closely linked to the ability to communicate proficiently in English. Housing providers therefore are prohibited from using limited English proficiency selectively or as an excuse for intentional housing discrimination. [See sidebar for guidance](#).

AFFIRMATIVELY FURTHERING FAIR HOUSING

Recipients and subrecipients must implement their CoC-funded projects in a manner that affirmatively furthers fair housing. While affirmative marketing may be incorporated into the CoC's Coordinated Entry system, this does not preclude recipients/subrecipients from their responsibilities to affirmatively market housing and supportive services. Recipients and subrecipients need to be familiar these requirements:

- Market their housing and supportive services to eligible persons regardless of race, color, national origin, religion, sex, age, familial status, or disability who are least likely to apply in the absence of special outreach.
- Maintain records of marketing activities.
- Inform the CoC's jurisdictions(s) as part of the Consolidated Plan process when recipients encounter conditions or actions that impede fair housing choice for current and prospective participants.

- Provide participants with information on rights and remedies available under applicable federal, State, and local fair housing and civil rights laws.

EQUAL ACCESS RULE

The Equal Access Rule (the Rule) published in 2012 ensures HUD's programs serve participants, regardless of sexual orientation, gender identity, family composition, or marital status.

The Rule also set a standard definition of family:

- Includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, persons presenting for assistance together with or without children and irrespective of age, relationship, or whether or not a member of the household has a disability.
- A child temporarily away from the home because of placement in foster care is considered a member of the family.

CoC Programs cannot discriminate based on the composition of the family (e.g., adults and children or just adults), the age of any members of the family, the disability status of any members of the family, marital status, actual or perceived sexual orientation, or gender identity.

CoC-funded programs:

- Must have updated policies and procedures that reflect the requirements.
- May exclude families without minor children if the project was funded solely to serve families with children. However, the project must serve all types of families with children that are otherwise eligible for assistance, including families with children headed by a single adult or consisting of multiple adults (with at least one child) who reside together.
- May serve a single sex only if the project: 1) serves adults only (no minors), and 2) has a physical configuration such that privacy is a concern, specifically shared bathing areas or shared sleeping areas. Also, [see sidebar for link to HUD's 2016 final rule](#) that accommodations in single-sex shelters and facilities must be made in accordance with the resident's gender identity.