

## Preventing Harassment (for PHA Executive Directors & Commissioners)

- Alexandria L.: Hi, I'm Alexandria Lippincott, and I'm a trial attorney in HUD's Office of General Counsel, Fair Housing Enforcement Division. Welcome to Preventing Sexual and Other Discriminatory Harassment in Housing, a fair housing training for public housing agency executive staff and commissioners. HUD's Offices of Public and Indian Housing, Fair Housing and Equal Opportunity, and Office of General Counsel, Fair Housing, have developed this training for executive directors and commissioners of public housing agencies. To begin today, we will share with you some welcoming remarks from Dominique Blom, the General Deputy Assistant Secretary for Public and Indian Housing, and Anna Maria Farias, who's the Assistant Secretary for Fair Housing and Equal Opportunity.
- Anna Maria F.: Hello. My name is Anna Maria Farias, and I'm HUD's Assistant Secretary for Fair Housing and Equal Opportunity. Welcome to today's training on preventing and addressing sexual harassment in housing. Every day we hear and read news stories about individuals who have been subjected to unwanted sexual advances and other forms of harassment. These incidents can happen to anyone anytime and anywhere. Here at HUD, we're seeing more and more cases involving women and men who have been subjected to harassment where they live. No one should have to endure this type of treatment to keep a roof over their head. It's illegal, and we're doing something about it.
- Anna Maria F.: Today's training is one in a series of sessions HUD is conducting to help you gain a clearer understanding of what sexual harassment is and HUD's enforcement authority when it comes to sexual harassment. You will also learn about our ongoing initiatives in this area,, including a joint HUD and Justice Department task force that has been created to combat sexual harassment. Thank you again for making the commitment to learning all you can about what behavior and actions constitute illegal harassment and HUD's increased efforts to address this type of discrimination. And we look forward to working with you to ensure that no one is denied the ability to feel safe and secure in the place they call home. Thank you very much.
- Dominique Blom: Hello. My name is Dominique Blom, and I'm HUD's General Deputy Assistant Secretary for Public and Indian Housing. Thank you for viewing this training about the approaches you can use to prevent and address sexual harassment. This training has been developed to provide you with information about the Fair Housing Act's protections regarding sexual harassment and other types of harassment. This video, other videos, and additional reference materials which are available on HUD exchange, will define harassment, including sexual harassment, and will explain HUD's enforcement authority to address harassment. You are encouraged to share these training materials and videos with your peers and neighbors. Thank you for insuring that secure and safe housing is available for families in your community.

Alexandria L.: Thank you Dominique and Anna Maria for those welcomes. This training series is a key component of the task force that Anna Maria mentioned. It is a joint initiative by HUD and the Department of Justice to combat sexual harassment in housing. The two agencies will also engage in public outreach, information sharing, and joint enforcement of Fair Housing Act violations. Now, let me introduce my colleagues who will be joining me for the live portion of this training. Casey Weissman-Vermeulen is a trial attorney in HUD's Office of General Counsel, Fair Housing Enforcement Division. And at the end of the table we have Megan K. Whyte de Vasquez from the US Department of Justice. She's in the Housing and Civil Enforcement section, Civil Rights Division. She will be discussing several cases, several harassment cases, that DOJ has prosecuted against public housing agencies.

Alexandria L.: In our training today, we will explain how sexual and other types of discriminatory harassment violate the Fair Housing Act. We'll inform PHA executive staff and commissioners about their responsibilities for preventing harassment in PHA housing programs, or correcting and ending it when it does occur. We'll use hypothetical scenarios to learn how to recognize and properly respond to sexual harassment and housing. We'll also identify steps that PHA should take to help prevent sexual harassment and to help victims of harassment.

Alexandria L.: First, let's start with some legal context. The fair housing act is the law that prohibits sexual harassment and housing, but it prohibits much more than just that. It prohibits discrimination in housing and housing related services and transactions because of race, color, religion, sex, national origin, familial status and disability. It also prohibits retaliation against somebody who has made a complaint about discrimination or has otherwise exercised other fair housing rights, or who has assisted another person in the exercise of that other person's fair housing rights. And while this training focuses on sexual harassment or discrimination because of sex, it is important to note that harassment because of the other six protected classes, it's seven in total in addition to sex, are also prohibited under the Fair Housing Act.

Alexandria L.: Sexual harassment can take many different forms. Sexually harassing conduct may appear as unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature. But it can also take the form of offensive remarks or hostile behavior because of a person's sex. Such conduct, whether in the form of a sexual come-on or hostility because of a person's sex, can be conveyed in many different ways, including statements, notes, pictures, photographs or gifts. And as that shows, it does not require physical contact between the harasser and the harassed tenant to be sexual harassment.

Alexandria L.: Protecting residents from sexual harassment starts with strong leadership. PHA executive staff and boards of commissioners must ensure that their housing programs are free from all forms of discrimination, including sexual

discrimination and harassment. Directors and commissioners have different, but complimentary, responsibilities for ensuring that PHAs meet their civil rights obligations. Executive directors and PHA staff execute policies, including civil rights policies, oversee all daily operations, manage and train employees and contractors, and respond to evidence of complaints of discrimination. Boards of commissioners establish policies, including those civil rights policies previously mentioned, and ensure that those policies are complied with and take action when they discover problems.

Alexandria L.: Clear policies and strong oversight don't just help safeguard the wellbeing of PHA residents and program participants. They also help protect the PHA itself. That's because the PHA may be liable under the Fair Housing Act when a PHA tenant or a participant in a voucher program is sexually harassed. PHA liability for sexual harassment can occur in many ways, and we will discuss later in this training. Now, we're going to use a hypothetical scenario to illustrate how PHA liability for sexual harassment can arise. As we go through each part of the scenario, we will discuss what happens, why the conduct is harassment, and what went wrong that allowed the harassment to occur. We'll also discuss what a PHA must do to correct and end the harassment, the consequences for inaction, and the best practices for addressing and preventing harassment.

Alexandria L.: Here are the facts of our hypothetical scenario. Jane lives in an apartment owned and managed by the Green Acre PHA. She submits a maintenance request to fix a leak under her kitchen sink. John, the PHA maintenance man responds to the request. When fixing the sink, John asks Jane if she has a boyfriend. Jane says that's none of his business. That doesn't stop John when he says she's "really hot" and that "We should hang out." Jane calls the PHA office. When no one answers, Jane leaves a voicemail for the site manager explaining that John came on to her and made her uncomfortable. Jane doesn't hear back from anyone at the PHA.

Casey Weissman: Okay. So let's stop there, and let's analyze what happened. John's conduct may have violated the PHA's employee conduct rules, but the conduct might not constitute a Fair Housing Act violation at this point, at least not yet. As we'll discuss later, that's because his conduct may not be severe or pervasive enough at this point to violate the Fair Housing Act. However, if the site manager does nothing, and no one else at the PHA takes action to address John's conduct, his conduct is likely to continue and get worse. And if it does, it will lead to a Fair Housing Act violation.

Casey Weissman: So what should the site manager do? She needs to take effective steps to ensure that the harassment stops immediately and does not progress. Steps she could take include initiating an investigation into Jane's allegations, informing Jane of her right to file a Fair Housing Act complaint, and encouraging Jane to report any additional harassment that she experiences. Additionally, even if the site manager is unsure if she's been told the full story at this point, she should warn John that harassing conduct is prohibited. And, if this and any other

corrective action taken by the site manager doesn't stop the harassment, she needs to take further action.

Casey Weissman: Taking a step back, what are some best practices that PHAs should have in place to ensure that complaints like Jane's don't fall through the cracks? For starters, PHAs should establish written procedures that provide multiple ways for tenants and voucher program participants to easily and safely make complaints. For example, by phone, email, online, or in person. It's critical that people feel safe when they make a complaint and know that if they do complain, the harassment won't escalate or attract attention from any other potential harasser. PHA should also hire or designate a harassment complaint coordinator that has primary responsibility for insuring complaints are appropriately handled and processed quickly. However, it's also important to note that even if your PHA has a complainant coordinator already, you still must ensure that any complaint of harassment is properly addressed regardless of who at the PHA first receives it. PHAs should also ensure that they document and maintain records of their investigations and any corrective actions that are taken.

Casey Weissman: Another best practice PHAs should adopt is to train all of their employees to gather basic information if they get a complaint or otherwise learn about potential harassment. Key pieces of information that should be collected include the victim's name and contact information for followup; a summary of what has happened; name of any harasser; witness or other possible victims; the property name and address; and any dates, times and locations of the harassment. PHA officials should also be trained to instruct victims to save any evidence. For example, texts, photos, voicemail, letters, notes, anything of that sort.

Alexandria L.: Turning back to our hypothetical, it's a week later, and the PHA has taken no corrective action for John's unwelcome conduct toward Jane. The situation escalates. John uses his master key to enter Jane's apartment at night without knocking or invitation. Jane is home and startled by his entry. He tells Jane he's there to check on the sink. Even though John fixed the sink a week ago, and Jane had not requested further maintenance. In the kitchen, John touches Jane on her rear end, points to a photo of Jane on the fridge and says, "Wow, you look hot in that bikini. You should put that bikini on for me right now." Jane refuses and tells John he needs to leave. John leaves saying he was just kidding. Jane calls the PHA site manager again and explains that John entered her apartment without knocking, touched her, and made inappropriate comments about her body. The site manager apologizes to Jane and tells her that she'll make sure it doesn't happen again. Jane doesn't hear further from the site manager.

Casey Weissman: Okay. So we're going to stop again and evaluate what has happened now. John's conduct has clearly escalated. His latest actions now violate not only the employee conduct code, but also the Fair Housing Act because they are severe and pervasive - two legal terms that we're going to discuss in more detail later. As I mentioned after part one of our scenario, and I'll emphasize again now, the

site manager must take whatever action is necessary to ensure that John's unwelcome conduct stops immediately and that Jane is protected from any potential retaliation. Given the nature of John's conduct, immediate interim action may be required even before any investigation is finished. That could mean for example, taking away John's master key, temporarily reassigning him to prevent contact with Jane or any other resident, issuing a no contact order, or implementing special oversight or monitoring until the PHA investigation is completed.

Casey Weissman: A simple verbal reprimand to John is grossly inadequate given the severity of his actions. In addition, the site manager must investigate, tell Jane of her right to file a Fair Housing Act complaint, and ensure that corrective action is effective in stopping John's unwelcome conduct. Even if Jane didn't give all the details to the site manager, the site manager must investigate to understand what exactly happened. Now in our scenario, we've identified the site manager as the person with the responsibility to investigate Jane's complaints, and I just want to note that the responsibility can be given to someone else at the PHA. For instance, your PHA may already have a complaint coordinator or other designee who would be responsible for investigations.

Casey Weissman: The important thing to remember is that someone at the PHA must look into Jane's complaints in order to determine how to correct the problem. So what best practices can a PHA adopt that would help ensure that the site manager appropriately responds to John's harassment of Jane? PHAs should adopt or update existing employee codes of conduct, review those standards with staff, and enforce them. The employee code of conduct should explicitly prohibit harassment against applicants, residents, and voucher program participants; provide for disciplinary actions for harassment up to and including termination when necessary; and provide for discipline for any employee who fails to respond appropriately to harassment complaints.

Alexandria L.: Let's talk about what could happen next if John's behavior is still not addressed. Two weeks later, Jane's hot water heater stops working, and she calls in an emergency maintenance request. Jane gets a call from John who says he's too busy to fix the water heater that day, but he says he'll find time to fix it if they could test the shower out together that night. Jane refuses, and the water heater remains broken when she gets home that evening. The next day, Jane calls the PHA site manager to complain about the lack of hot water and that John was saying inappropriate things again. The site manager tells Jane she'll make sure that our water heater gets fixed by the end of the day. The site manager doesn't inquire about or otherwise respond to Jane's complaint about John's inappropriate comments. John is sent to Jane's apartment, and the water heater is repaired by the time Jane gets home.

Casey Weissman: All right, we're going to move on to analyzing part three of our hypothetical scenario. Here, we have John conditioning his repair of the water heater on Jane's agreeing to shower with him. That amounts to a violation of the Fair

Housing Act, and we'll discuss precisely why a bit later. But right now, let's talk about what the site manager should have done. First of all, the site manager should not have assigned John to make the repair in Jane's apartment given his prior harassing conduct. As I noted before, the site manager or another PHA employee must quickly investigate Jane's complaint, stop John's harassment, and ensure that Jane is protected from retaliation. Thus, it's not nearly enough to just make sure that Jane's water heater gets fixed, the harassment has to stop. The site manager must enforce the PHA's employee standards of conduct against John, and in this case his invasion of her home and inappropriate touching warrants termination.

Casey Weissman: Now, while our hypothetical has focused on steps PHAs should take to address harassment of public housing tenants, it's important to emphasize the PHAs should also take similar steps to protect the voucher program participants from harassment. These steps may include educating voucher program landlords about their obligation to prevent and address harassment of their tenants, promptly investigating complaints from voucher program participants, just as with complaints from public housing tenants, and I'd also note that, that would include complaints against PHA staff and complaints against landlords that rent to voucher program participants. If an owner engages in or fails to correct harassment of a voucher program participant, PHAs should enforce the provisions of the housing assistance payments contract or any other rules that prohibit discriminatory conduct.

Casey Weissman: Actions a PHA can take include warning the owner and directing him or her to take corrective action; abating, suspending, or terminating the HAP contract; prohibiting the owner's future participation in the PHA's housing programs; and/or asking how to enforce a limited denial of participation, suspension, or debarment to exclude a person or entity from HUD's programs. PHAs should also work with their voucher program participants to resolve complaints and ensure housing continuity. That might include offering a transfer voucher or helping to locate other project-based voucher housing. The most important thing to remember is that voucher program participants have the same rights as PHA tenants to make and file complaints.

Alexandria L.: Let's turn back to our hypothetical scenario for one last part. The next week, the site manager sees Jane holding hands with Jane's boyfriend. The site manager says, "I don't want your boyfriend living with you. You're the only one on the lease." Jane tells the site manager that she is the only one living in her apartment, and her boyfriend is only just visiting. Shortly afterward, Jane gets a notice from the PHA stating that her assistance is being terminated because she had "unauthorized guests residing in her apartment." However, the PHA allows visitors and does not terminate the assistance of other women whose boyfriends visit.

Casey Weissman: So let's just discuss what happened in part four of our hypothetical. It appears the site manager is terminating Jane's assistance because she complained about

John's conduct. That's retaliation, and it's illegal. Under the Fair Housing Act, it's illegal to retaliate against a person for complaining about discrimination. PHAs should have a process for receiving complaints from residents and a way to monitor employees to make sure complaints are handled appropriately, including taking proper corrective actions.

Alexandria L.: So let's keep this scenario with Jane, John, and the site manager in mind as we discuss what is sexual harassment under the Fair Housing Act, who was liable for sexual harassment, and additional best practices that PHAs can use to prevent and/or stop sexual or other forms of discriminatory harassment and housing. Sexual harassment is typically described in two ways. One is known as hostile environment harassment, which is unwelcome conduct because of sex that is sufficiently severe or pervasive as to interfere with a person's ability to obtain, maintain, or use and enjoy housing or housing-related services. A single incident of harassment if severe can create a hostile environment that violates the Fair Housing Act. Hostile environment sexual harassment does violate the Fair Housing Act even if the PHA or landlord does not terminate assistance or evict the victim, increase the victim's rent, withhold repairs, or take other similar acts.

Alexandria L.: So thinking back to our hypothetical scenario, did John create a hostile environment for Jane? Yes. His conduct created a hostile environment because it was unwelcome. It was severe or pervasive. And actually in this case, it was both. He interfered with Jane's enjoyment of her home because he repeatedly asked to spend time with Jane even though Jane made it clear she was not interested. He entered Jane's apartment with a key without knocking or a legitimate reason to be there. He made comments about her body and asked Jane to put on a bikini, and he touched Jane without her permission. Some of John's conduct by itself would be severe enough to violate the Fair Housing Act. Specifically, John's entry into her home and the unwelcome touching. Another type of sexual harassment that violates the Fair Housing Act is known as quid pro quo harassment.

Alexandria L.: Quid pro quo, or this for that harassment, occurs when a person is made to submit to an unwelcome request to engage in sexual conduct as a condition of obtaining or maintaining housing or housing-related services. It also is a violation when a person suffers an adverse housing action such as an increase in rent or an eviction because that person refused to submit to such a request. A quid pro quo can be explicit or implicit. An example of an implicit quid pro quo involves a PHA leasing agent implying that an apartment will become available faster if the applicant engages in a conversation about her sex life. Quid pro quo harassment does not need to be severe or pervasive, and a single incident of quid pro quo harassment does violate the Act. It's important to note that even if a victim acquiesces or submits to an unwelcome request or demand, it is still a quid pro quo harassment, and it is illegal. For example, it's not uncommon for a tenant to agree to have sex with a housing owner in order to have rent reduced or other fees waived.

Alexandria L.: Applicants as well as residents can be victims of harassment. For example, a PHA employee may tell an applicant that she'll move up the waiting list faster and get a voucher if she has sex with him. There are other examples of quid pro quo harassment from real cases which include when maintenance repairs are not made; security deposits are not returned; applications aren't approved; or eviction is threatened unless a tenant or an applicant answers questions about her sex life, provides nude pictures, or actually has sex with the housing provider.

Alexandria L.: So thinking back to our hypothetical scenario once again, did John commit quid pro quo harassment? The answer is yes. John committed quid pro quo harassment when he refused to fix Jane's water heater unless she agreed to test out the shower with him. And even if Jane had agreed to participate in this unwelcome conduct, meaning if she had actually showered with him, it would still be a quid pro quo and illegal under the Act. And by the way, it doesn't matter which type of harassment - hostile environment or quid pro quo - John committed in his interactions with Jane, because both types violate the Fair Housing Act and either type can lead to liability for the PHA. I also want to point out that while, in the scenario that we described, it featured a woman who was a victim of harassment, men can also be victims of harassment.

Casey Weissman: So now that we've established that John committed both hostile environment and quid pro quo harassment, we can turn to the question of liability resulting from his conduct. We'll look at liability not only for John, but also the site manager, and the PHA itself. Let's start with the most straight forward question. Would John be liable? Yes, of course. John committed sexual harassment that violated the Fair Housing Act, and he's therefore liable for his own harassing conduct. It doesn't matter that he's not the owner or the property manager.

Casey Weissman: What about the site manager? Would she be liable under the Fair Housing Act? Yes. PHA site managers and other PHA officials are liable for sexual harassment when they engage in harassment themselves, or they fail to take actions within their power to stop harassment by other individuals that they knew or should have known about. Those other individuals can be PHA employees or agents such as subordinates or contractors, PHA tenants, or voucher program landlords and property managers. PHA site managers and other PHA officials are also liable if they retaliate against someone who complains about harassment. In our scenario, the site manager obviously didn't engage in harassment herself, but she knew of John's harassment and did little or nothing to stop it. As John's supervisor, she could have, for example, given John a warning when Jane first complained or suspended him or taken other action to address and stop his harassing conduct.

Casey Weissman: Her failure to take any of these steps makes her liable under the Fair Housing Act. But her failure to take corrective action isn't the only reason why she's liable. She's also liable because it appears that she terminated Jane's assistance in retaliation for Jane's complaints. And finally, would the PHA be liable for

John's harassment? Yes. PHAs are liable for harassment and retaliation committed by their employees and agents even if they don't know about it. This applies to employees or agents that administer any PHA program, including voucher programs and any agent, including contractors. In addition, PHAs are liable for failing to take action or actions within their power to stop harassment by their employees, agents or voucher program landlords and property managers if they know or should have known about the harassment.

Casey Weissman: In our scenario, the PHA is liable for both of these reasons. Both John and the site manager are employees or agents of the PHA and engage in harassment and retaliation in violation of the Act. Additionally, the PHA knew through the site manager of John's harassment and allowed it to continue without attempting to correct or end it. Having covered the reasons why John, the site manager, and the PHA would be liable under the Fair Housing Act, I want to briefly discuss how that liability might be imposed. One way that liability can be imposed is through HUD's administrative enforcement process. If Jane were to file a Fair Housing Act complaint with HUD, HUD would then investigate the case and could file a lawsuit on behalf of Jane before an administrative law judge. That administrative law judge can render a judgment that imposes liability and awards any appropriate monetary and other relief to Jane.

Casey Weissman: Another way that PHAs and their employees may be held liable is through lawsuits brought by the Department of Justice in federal court. Such lawsuits often originate from HUD investigations but also are brought by DOJ based on its own authority to investigate possible Fair Housing Act violations. You'll hear a bit more about DOJ's enforcement role a little bit later in the presentation.

Alexandria L.: As we mentioned in the introduction to this presentation, sexual harassment is only one form of prohibited harassment under the Fair Housing Act. And we have a new scenario for you. Bill lives in public housing. Bill is black. For weeks, Bill's neighbor curses at him. The neighbor uses racial slurs, tells Bill that blacks shouldn't be allowed to live there, spits at him, and repeatedly tells Bill to go back to Africa. Bill complains to the site manager who does nothing. Bill is experiencing tenant on tenant harassment, and it violates the Fair Housing Act when harassment is because of any of the Act's seven protected characteristics. Our scenario here obviously involves racial harassment. PHAs and their employees are liable if they fail to take steps to stop one tenant from harassing another based on a protected characteristic as long as they knew or should have known about the harassment.

Alexandria L.: And the PHA can learn about harassment, for example, from the tenant being harassed, or others who witness it, from news reports, or police visits to the property. Unlike harassment by employees or agents, PHAs cannot be liable for tenant on tenant harassment if they did not know or did not have reason to know about it. When addressing tenant on tenant harassment, the PHA must ensure that its corrective action does not adversely impact the harassed tenant. For instance, a PHA can offer to move a tenant who's been harassed, move her

to a new unit, but if the tenant does not want to move, then the PHA can't make the tenant do so. Of course, we should note that the harassing tenant would also be liable for his or her own discriminatory conduct. And a little later in this presentation, Megan will touch on a couple of cases that HUD has charged and DOJ is prosecuted against PHAs for failing to correct and end tenant on tenant harassment.

Alexandria L.: Now that you understand that tenant on tenant harassment can create liability for your PHA, what best practices can a PHA implement to help prevent or stop it? PHAs already have a pretty powerful tool to address tenant on tenant harassment - the lease. PHAs can enforce lease provisions and other rules that prohibit tenant conduct that threaten the health, safety, or peaceful enjoyment of others. And tenant on tenant harassment is an example of conduct that interferes with that health, safety or peaceful enjoyment of other tenants. PHAs can take action to stop and correct such harassment by issuing verbal and written warnings and notices of rule violations or by terminating assistance and/or evicting the harassing tenant if necessary. However, as previously mentioned, PHAs must be careful to avoid taking corrective actions that would harm the harassed tenant. And of course, a PHA can't retaliate against a harassed tenant because he or she has complained about harassment.

Casey Weissman: So there are various other forms of harassment that violate the Fair Housing Act. For example, persons with disabilities are often targets of harassment that violates the Fair Housing Act. Such harassment might include mocking a person for the person's disability, obstructing access for a person with physical limitations, or telling a person they don't belong in housing because of their disability. As with any other type of discriminatory tenant on tenant harassment, a PHA can be liable under the Fair Housing Act for failing to take appropriate action in response to a complaint from a tenant with a disability that another tenant was harassing him because of this disability. Of course, a PHA will also be liable if its staff engages in disability-based harassment.

Casey Weissman: Having covered when sexual and other types of harassment violate the Fair Housing Act, and who is liable for it, let's now discuss what the consequences of Fair Housing Act liability can be. With liability comes damages. Through settlement or court order, PHAs and PHA officials who violate the Fair Housing Act can be required to pay damages to victims, which are wide ranging and could include psychological harm, including humiliation, anger, anxiety, and other types of emotional distress, physical harm, including injuries from physically harassing conduct as well as the physical effects of psychological harm, and economic harms, including loss of housing assistance, moving costs, and higher rent at a new home. A PHA may also have to pay damages caused to others who witnessed the harassment or lost housing as a result of the harassment. For example, this could include awards to family members such as spouses, minor children, and/or grandchildren.

Casey Weissman: Finally, a PHA or PHA officials may also be required to pay civil penalties in cases brought by HUD in the Department of Justice. In certain cases, DOJ can seek nearly 103,000 dollars in civil penalties for a first time violation. Where harassment is widespread, PHAs have been required to pay settlements or judgments totaling in the millions of dollars. And you'll hear about one such case brought by DOJ in just a moment. But before I turn things over to Megan, I wanted to note that PHAs can't use federal funds to pay these damages, awards, or fines. And while PHAs may be able to cover the cost of the damage, awards, or settlements through insurance, insurance coverage may be difficult to retain or more expensive if harassment is not appropriately addressed. So of course the best approach is always prevention. To perhaps underscore that point, I'll now turn things over to Megan who is going to discuss some recent enforcement actions brought by the Department of Justice.

Megan K. Whyte: So I'd like to talk a little bit about DOJ enforcement generally. We can get cases from a few different ways, and one of them is, if an individual files a HUD complaint, then it goes through the HUD investigative process, HUD finds reasonable cause, and one of the parties to that complaint decides to have the complaint heard in federal court. DOJ can also bring cases under what's called its pattern or practice authority, which means that there is a pattern or practice of sexual harassment in housing. Generally, this means there are multiple victims, there's a pattern that's repeated over time, and often we find that sexual harassment cases are also pattern or practice cases. It is very rare that there is only one incident or only one person who has been sexually harassed. The Department of Justice also can bring cases when individuals could not bring them on their own.

Megan K. Whyte: Individuals who want to file a complaint with HUD have to do so within one year. If they want to file a complaint in court, they have to do so within two years. However, the Department of Justice only has to file a case within three years of learning about it and then we can actually recover damages on behalf of victims further back in time. In addition to damages for harmed individuals, the Department of Justice can seek civil penalties, punitive damages, and injunctive relief, which is a set of specific orders for defendants to do or not do certain things. We also often have a compliance aspect that requires reporting over a period of years about certain things. And we seek these in settlements as well as at trial.

Megan K. Whyte: I thought it would be most useful to explain how the Department of Justice's involvement can make a difference in the context of actual sexual harassment cases that we have brought against housing authorities. We had one recently against Southeastern Community and Family Services. They ran the voucher program in Scotland County, North Carolina. There were actually two harassers in that case, and they were both employees of the housing authority. One was the section eight housing coordinator and the other was the section eight housing inspector. To give you a sense of what some of the women in this case went through, I'm going to read you a few statements from one of the victims.

"I applied for a section eight voucher, during the time of my application, I went into John Wesley's office. He told me that he gets favors from other girls, and he gives favors. I asked what he meant, and he said that if I gave him oral sex, I would get a voucher.

Megan K. Whyte: He asked me to wear a short skirt with no panties or bra the next time I came into his office. He also wanted me to strip down in his office so he could see all of my tattoos. He called me and asked me to come back into the office the next day. I noticed that he put the picture of his wife down when I walked into his office. While I was sitting down, he rubbed on my thighs. I stopped him before he got under my skirt. He also fondled my breasts. I got up to leave and told him I was upset and very uncomfortable with all of this. I also said I was going to tell someone. He grabbed me and turned me to face him. He kissed me and lifted my skirt and fondled me. I pushed him away. His door was locked, so I was really scared.

Megan K. Whyte: He then brought me into Eric Pender's office. Mr. Pender said he could help me out if he came to my house. He wanted to know if he and Mr. Wesley could do a threesome with me. I told him I'm not that kind of person, that I was homeless and had two small girls, and that I needed a voucher. Mr. Wesley called me back to the office on two more occasions within the next two weeks. He groped my body, held my hands, and rubbed my legs. He told me that I would not get a voucher unless I had sex with him. He kept saying it was an okay thing to do because so many other women were doing it. But a month later, I got a voucher. I think I got the voucher because I threatened to tell someone what was being demanded of me. After I got my voucher, Mr. Wesley and Mr. Pender showed up at my house approximately two to four times a month for six to eight months. I couldn't put up with their visits any longer, so I moved. I left my voucher because it wasn't worth it to me."

Megan K. Whyte: The Department of Justice filed a lawsuit against both men as well as the housing authority. The allegations were that the two men sexually harassed applicants and participants in the voucher program while exercising their authority as employees of the housing authority, and the housing authority failed to take reasonable preventive or corrective measures. So the Department of Justice lawsuit was consolidated with a private lawsuit that had been brought on behalf of 15 people. Together, the lawsuits were resolved for 2.7 million dollars. The Department of Justice's portion compensated 71 additional victims, some of whom could not have filed their own claims because it had happened more than two years earlier. The settlement also placed a lot of requirements on both the housing authority and the individuals. The individuals are prohibited from participating in any voucher program in the future. They're prohibited from managing any residential rental properties in the future. And if they ever become owners of any residential rental properties, they're prohibited from entering the premises of those properties except in very limited circumstances, and they're required to have those properties managed by an independent manager that the United States Department of Justice approves in advance.

Megan K. Whyte: The housing authority also had to hire an independent manager to run the voucher program. That independent manager had to be approved by the Department of Justice. That manager was the only person who could make hiring decisions related to the voucher program. The settlement also imposed a number of affirmative obligations, including training of PHA employees, giving certain information to voucher program applicants and participants, certain things related to signage and advertising, and recordkeeping, and nondiscrimination policies and procedures. It also limited the housing authority's access to its units, including limiting when housing authority employees and agents could enter the units, how much notice was required before an inspection could be conducted, and requiring that female housing authority employees be involved in inspections. It agreed that the United States could conduct fair housing tests, basically being secret shoppers to make sure that there were no other violations, required them to publish and pay for notices in local newspapers to try to find additional victims, and it required the housing authority to provide regular reports to the United States for a period of six years.

Megan K. Whyte: We had another sexual harassment case recently brought against another housing authority, the Kansas City, Kansas Housing Authority. They operate the city's public housing, and the department received HUD complaints and other reports that three housing authority employees were sexually harassing public housing residents and applicants. There was a hearing officer. He gave housing to applicants who are appealing housing denials and dismissed fines and fees that residents owed to the housing authority if he could show them his genitals, show them pornography, or ask them sexual questions. There was a property manager. He asked tenants for sex in exchange to getting into public housing or getting a housing transfer. The director of housing management evicted residents who rejected his sexual advances. The Department of Justice filed a lawsuit against the housing authority and the three employees.

Megan K. Whyte: The lawsuit was settled for 360,000 dollars, and 14 women were compensated. The settlement placed a lot of requirements on the individuals and on the housing authority. A lot of them were similar to the ones that I described in the prior case, but there are also other ones here. For the individuals, one of the three was prohibited from ever managing residential rental properties in the future. The other two were not prohibited from managing residential rental properties, but if they ever wanted to do so, they were required to give a copy of the settlement agreement to their employer, get a signed and written acknowledgment from the employer that they had received a copy of the settlement agreement, and then they were required to give their signed acknowledgements to the Department of Justice. They're required to report to the Department of Justice any future sexual harassment complaints that were made against them. They were prohibited from contacting or communicating with any of the victims, and they were prohibited from entering any units owned or operated by the housing authority.

Megan K. Whyte: The housing authority itself was prohibited from employing the individual defendants in any capacity, and they were required to establish a new procedure for appeals hearings. That new procedure had to be approved by the Department of Justice. It required that someone independent conduct appeals hearings. It required them to maintain detailed written records of the proceedings and for the director of the housing authority to review random records monthly to ensure that the proper procedures are being followed. And finally, prior to hearings, they were required to provide notice to applicants or residents of their right to have an advocate of their choice attend the hearing.

Megan K. Whyte: So these cases highlight the importance of having a strong complaint mechanism for housing authority tenants. And as mentioned earlier, it is also important to have a strong complaint mechanism that encompasses situations where the harassers are not housing authority employees, but the harassment occurs in publicly assisted housing. We had a case recently in which a number of voucher holders complained to their case workers at a housing authority about sexual harassment by a private property manager. The caseworkers recognized it was an issue, and they wanted to do something about it. So they went to their supervisor, who is the head of the voucher program at the housing authority, and they reported it. And the supervisor essentially said that there was nothing that housing authority could do, and that was the end of it. There was no discussion of the housing authority reporting to HUD, of individual tenants being told that they could report to HUD, the possibility of transfer vouchers, nothing.

Megan K. Whyte: We learned about it because those caseworkers happened to be at a training with the local HUD official, and they pulled that HUD official aside after the training and told him about it. And then HUD began an investigation, and eventually it came to our office, and the Department of Justice filed suit. Housing authorities can be held liable when they don't adequately protect tenants from harassment. I'm going to talk about two cases that the department has brought against housing authorities involving harassment by public housing tenants when the housing authorities failed to adequately address that harassment.

Megan K. Whyte: In 1999, the Department of Justice filed a lawsuit against the Boston Housing Authority. There were two predominantly white public housing developments that had been subject to a desegregation agreement with HUD a decade earlier. The lawsuit alleged pervasive and violent harassment of public housing tenants by other tenants, as well as visitors, on the basis of race and national origin. It involved racist graffiti, which the housing authority was alleged to have left up for months; racial slurs; racially motivated violence, including children who were beaten; BB pellets fired through windows; rocks, urine and eggs thrown through windows or thrown directly at tenants; and intimidation and other crimes against property. That complaint alleged systematic failure by the housing authority to protect tenants from harassment.

Megan K. Whyte: Also alleged, that the housing authority knew of the pervasive harassment, including the identities of some of the harassers, but failed to adequately document, investigate, or otherwise respond to or address the problem. That settlement included a number of terms like those discussed earlier, as well as a million dollars that went to victims, plus 500,000 dollars for attorney's fees in a related private lawsuit; required the housing authority to adopt a civil rights protection plan to enforce a policy of zero tolerance for civil rights violations; to implement policies related to graffiti removal, transfer requests and local tenant organizations; to increase police patrols and efforts to recruit diverse pool of applicants for the police force; to hire new staff members for the housing authority's Office of Civil Rights and Public Safety Department; and a number of other things. More recently, the Department of Justice filed a lawsuit against the Wheeling Housing Authority because of racial harassment by tenants in public housing. Alleged that a white tenant family was harassing a black tenant family.

Megan K. Whyte: It included verbal abuse, racial slurs, threats, assaults, and attempted assaults. And it alleged that the housing authority knew or should have known because the black tenants made several complaints to the housing authority, and the housing authority had cameras that they were supposedly reviewing, so they would've seen the interactions. The settlement there required the housing authority to implement formal complaint mechanisms and trainings as part of the settlement, similar to what was described in other cases. It also required the housing authority to regularly contact the local police department to collect any reports of police visits to the property. And it required the housing authority to review video footage from the surveillance cameras throughout the property for any dates of reported police visits.

Megan K. Whyte: As one final thought on DOJ enforcement, sexual harassment and other forms of harassment are not just illegal when they are incredibly severe, like the examples that I've described. The Fair Housing Act also prevents harassment that is far less shocking. And so long as it constitutes quid pro quo or is severe or pervasive enough to create a hostile environment, it is illegal, and the Department of Justice has the ability to do enforcement.

Casey Weissman: So we've just gone through all of the potential consequences of liability in harassment suits. And often, the focus is on the financial costs of liability. But I think it's important to point out that the costs of violating the Fair Housing Act aren't just limited to financial settlements, and the harm caused to victims is never fully remedied by settlements or judgments. Monetary damages in these cases are really just an imperfect attempt to make victims feel whole again, but many harms can't be fixed by money. The impact of harassment can have ripple effects that extend to every facet of a victim's life, including his or her work, their relationships, and self image. The bottom line is really that harassment can totally upend victims lives.

Casey Weissman: For PHAs too, the consequences of harassment can extend beyond what's reflected in a settlement agreement or a court judgment. Anytime harassment occurs, it undermines the PHA's mission to provide safe, decent, affordable housing. But this is particularly true when lawsuits divert resources from the important day to day work of running a PHA. Apart from monetary penalties, harassment lawsuits can also lead to HUD sanctions that impair PHAs operations, which may include reduction of payments under the annual contributions contract with HUD; placement on the troubled properties list; or issuance of a limited denial of participation, suspension, or debarment of directors, commissioners, staff, or the PHA itself. Additionally, a housing environment permeated with fear of harassment, or retaliation for reporting it, is one where tenants are less likely to report maintenance issues or other problems. And if those issues go unaddressed, it could lead to deterioration of PHA property or other asset management problems.

Alexandria L.: Before we turned to some final best practice recommendations, let's consider one final scenario involving Tom, who is gay and uses as a housing choice voucher to rent an apartment. After Tom moves in, Tom's landlord learns that Tom is gay, and he issues him a notice of eviction. Tom's landlord cannot do that. HUD's Equal Access Rule prohibits landlords who accept housing choice vouchers and have a HAP contract from refusing to provide housing or evicting a tenant because of a person's actual or perceived sexual orientation, gender identity, or marital status. The Equal Access Rule applies to all PIH programs and all PHAs, regardless of the size of the PHA. While we've used a housing choice voucher in this example for our hypothetical, the Equal Access Rule also applies to public housing and project-based voucher programs.

Casey Weissman: Now that we've covered what sexual and other discriminatory harassment is, who's liable for it, and what the consequences of liability are, we want to recommend a few more best practices for PHAs to proactively help stop harassment before it starts. First, PHAs should review existing policies and protocols for how the PHA handles harassment complaints, identifying deficiencies in those policies, and revise them if needed.

Casey Weissman: PHAs should also talk to residents and program participants to assess whether they have experienced or witnessed harassment, and if so, whether they reported it and whether the PHA adequately responded. Additionally, because a PHA can't stop harassment it doesn't know about and because it can mitigate its liability if it addresses problems promptly, it should educate residents and program participants about their fair housing rights and encourage complaints. At a minimum, application and tenant packages should inform tenants about how they can report harassment to the PHA as well as how they can file a Fair Housing Act or Equal Access Rule complaint.

Casey Weissman: And if it hasn't done so already, your PHA should develop and publicize anti-harassment policies in all appropriate languages that make clear that sexual and other discriminatory harassment will not be tolerated; that complaints are

encouraged and will be taken seriously; and that victims, employees, and witnesses who report harassment will be protected from retaliation. When developing anti-harassment policies and complaint processes, PHAs should get input from tenants, program participants, and other stakeholders, such as local legal aid organizations. Your PHA should also require all staff to attend fair housing training that emphasizes preventing harassment.

Casey Weissman: Lastly, as previously mentioned, PHAs should inform tenants and program participants about how they can file complaints. So we want to end by providing you with information on the different ways to file a Fair Housing Act or Equal Access Rule complaint. With regards to Fair Housing Act complaints, they can be filed with HUD through HUD's website at [www.hud.gov](http://www.hud.gov) or by phone at 1-800-669-9777. Complaints can also be filed with state or local fair housing agencies, and a list of those agencies can be found on HUD's website as well.

Casey Weissman: In addition to filing a complaint with HUD, victims of harassment can also contact DOJ by emailing [fairhousing@doj.gov](mailto:fairhousing@doj.gov) or by calling 1-844-380-6178. And finally, with regards to Equal Access Rule complaints, residents and program participants should be instructed to contact their local HUD office.

Casey Weissman: So, that concludes our presentation, and we can now turn to addressing some questions from the audience. Periodically throughout the presentation you've probably seen a email address posted on the screen, so if you haven't submitted questions already, you're welcome to do so now.

Casey Weissman: So we have our first question. And the question is, "Who ultimately holds the responsibility for preventing and addressing sexual harassment at public housing agencies?" The answer to that is that, it's not any single individual. Any PHA official or staff member has responsibility for helping to prevent or address harassment that is occurring. Now, roles and responsibilities may differ depending on who that person is, but everybody plays a role. Executive directors and commissioners establish policies, such as some of the ones that we recommended throughout the presentation, but staff are really the ones that often are responsible for carrying out those policies. So really, everybody has to play your part.

Alexandria L.: We have another question, "Will the PowerPoint presentation be posted?" Yes, the PowerPoint presentation will be posted on HUD Exchange. I don't believe it is there yet, but it will be there soon. Thanks.

Casey Weissman: Let me just add the webcast, this webcast, will also be posted for later viewing. The third question, "Will there be other trainings?" Yes. This training is actually a part of a series of trainings that we're giving to PHAs and their staff. The next training will be for PHA employees.

Alexandria L.: May 30th.

Casey Weissman: We will also be providing training for owners that participate in PHA voucher programs, and also we will be providing a training for PHA residents and program participants.

Alexandria L.: So another question, "Going back to the first scenario, if Jane accepted John's advancements in exchange for fixing her hot water heater, would it still be a violation of the Fair Housing Act?" Yes. Even if Jane had accepted the conditions that John had put on getting her hot water heater fixed, it is still a quid pro quo. It is a quid pro quo, and it does violate the Fair Housing Act.

Casey Weissman: Another question here; it's about our hypothetical. It says, "The site manager didn't harass Jane, so why is she liable?" As we mentioned in the presentation, it's not just the person that's directly engaged in the harassment that's potentially liable under the Fair Housing Act. Under the Fair Housing Act, if a PHA official has the power to stop harassment, knows about it, and does nothing, that failure to act makes them liable under the Fair Housing Act.

Alexandria L.: Another question. "What if a PHA supervisor doesn't know that a PHA staffer is sexually harassing a tenant. Will the PHA be liable? Will the supervisor be liable?" The PHA would be liable. Knowledge is not required of the harassment for the PHA to be liable. The staffer however, would only be liable if he or she knew about it or had reason to know of the harassment. So, that was the last question. Thank you.

Casey Weissman: So, that concludes today's training. We know other folks may have submitted other questions. We do intend to address those questions in an FAQ at a later point in time. So thank you very much for joining the presentation today.