

# Preventing and Addressing Sexual and Other Discriminatory Harassment in Housing

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Fair Housing Training  
For Public Housing  
Agency Employees



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- **Explain** how sexual and other types of discriminatory harassment violate the *Fair Housing Act*.
- **Inform** you, PHA employees, about your responsibilities for preventing harassment in PHA housing programs and for helping to correct and end it when it does occur.
- **Use** hypothetical scenarios to learn how to recognize and properly respond to sexual harassment in housing.
- **Identify** steps that you and your PHA should take to help prevent sexual harassment and help victims of harassment.

## ***The Fair Housing Act:***

- **Prohibits discrimination in housing** and housing-related services and transactions *because of race, color, religion, sex, national origin, familial status, or disability.*
- **Prohibits retaliation against someone** who has made a complaint about discrimination or otherwise exercised his or her fair housing rights or who has aided someone else in doing so.







**This training focuses on SEXUAL HARASSMENT**  
*(i.e., discrimination because of sex).*

But harassment because of:

- race
- color
- religion
- national origin
- familial status
- disability

also violates the **Fair Housing Act.**

### **Sexual harassment in housing can take many different forms:**

- It can take the form of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- It also can take the form of offensive remarks, insults, or other hostile behavior because of a person's sex.
- It can consist of oral, written, or other conduct and does not require physical contact between the harasser and victim.



- **PHAs** must ensure their housing programs are free from discrimination. **All employees** are responsible for helping the PHA meet this obligation.
- **Directors and Commissioners** are responsible for establishing anti-harassment policies, but PHA employees are the ones who are responsible for carrying them out.
- **ALL employees** must know what to do if they become aware of housing harassment by another employee or by one tenant against another.
- **PHAs** should foster a sense of investment and openness among staff – staff must be encouraged to speak up and be assured that they will be protected from retaliation for doing so.

**PHA employees are collectively responsible for reporting, tracking, correcting, and ending sexual harassment.** But, as we'll discuss later, an individual employee's responsibility depends on his or her duties.





- **When a PHA resident** *(or housing voucher program participant)* **is sexually harassed**, the PHA may be liable under the ***Fair Housing Act***.
- **PHA employees** can also be liable.
- **Liability for sexual harassment** can arise in multiple ways – we'll discuss them later.



**We are going to use a hypothetical** to illustrate how PHA and employee liability for sexual harassment can arise. As we go through each part of the hypothetical, we will discuss:

- **What happens;**
- **Why the conduct is harassment;** and
- **What went wrong** that allowed the harassment to happen.
- We'll also discuss what PHA employees must do to **correct and end** the harassment, the **consequences** for inaction, and **best practices** for addressing and preventing harassment.

**Jane lives in an apartment owned  
and managed by the Greenacre 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. He  
responds by saying she is "really hot"  
and that "we should hang out."



**Jane calls and leaves a voicemail** for the PHA site manager explaining that John “came on to her” and “made her uncomfortable.”

Jane doesn’t hear back from anyone at the PHA.





- John's conduct may violate the PHA's employee conduct rules but – as we'll discuss later – might not constitute a **Fair Housing Act** violation **yet**.
- However, if the site manager does nothing, John's conduct will likely get worse – to the point that it **does** violate the **Fair Housing Act**.



## Best Practices

**How can you, as a PHA employee, ensure complaints don't "fall through the cracks"?**

- Familiarize yourself with your PHA's policies and procedures for handling complaints.
- Alert your PHA complaint coordinator, supervisor, or any other PHA official who is responsible for ensuring complaints are appropriately handled and processed quickly.
  - If that is you, take corrective action yourself.

## Best Practices

### **Different roles means different responsibilities. Generally –**

#### **Managers should:**

- Work with your Executive Director or designee to review, update, and implement anti-harassment policies;
- Receive and track harassment complaints;
- Take corrective actions to stop harassment;
- Follow up with victims to ensure corrective action was effective; and
- If corrective action was not effective, take further corrective action.

#### **Non-managers should:**

- Know your PHA's anti-harassment policies and employee code of conduct.
- Report violations of policies or codes that you witness or learn about, or refer complaints you receive to your supervisor or the complaint coordinator, if your PHA has one.

## Best Practices

### **PHA employees should collect this information when taking a complaint:**

- Victim's name and contact information for follow up;
- Summary of what happened (tell victim to save evidence – e.g., texts, photos, voice mail, letters, notes, journals, etc.);
- Names of harassers, witnesses, and other possible victims, if known;
- Property name and address; and
- Dates, times, and locations of harassment.

A week later, **John uses his master key to enter Jane's apartment at night**, without knocking.

Jane is home and is startled by his entry. He tells Jane he's there to check on the sink, even though the sink was fixed a week ago and she had not made another maintenance call.





In the kitchen, John touches Jane on her buttocks, 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 she will make sure “it doesn’t happen again.”

Jane doesn’t hear further from the site manager.



- John's latest actions and comments now violate both the employee conduct code AND the **Fair Housing Act** because they are **severe** or **pervasive**.
- The site manager must take any actions necessary to ensure that John's unwelcome conduct stops immediately and that Jane is protected from any retaliation; alternatively, she must report John's conduct to someone else at the PHA who is responsible for taking such corrective action.



- Immediate interim action may be required even before any investigation is finished – for example, taking away John’s master key, temporary re-assignment, issuing a no contact order, or special oversight or monitoring pending conclusion of an investigation.
- A verbal reprimand to John is **grossly inadequate** given the severity of his actions.
- 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.
  - Alternatively, in your own PHA, you may have a **complaint coordinator or other designee** who would be responsible for such investigations.



## Best Practices

### **Know your PHA's employee code of conduct. The code of conduct should:**

- prohibit harassment against applicants, residents, and voucher program participants;
- provide for disciplinary actions for harassment;
- encourage employees to report any inappropriate conduct that they witness or hear about; and
- provide for discipline for employees who do not respond appropriately to harassment complaints.

**If you learn that a co-worker is harassing a tenant, you must report it to an appropriate supervisor.**



## Hypothetical Part 3: The Facts

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 is "too busy" to fix the water heater that day but says he will find the time to fix it if they could "test out the shower together" that evening. Jane says "no!"

Bob, another maintenance person, overhears John make the offer to Jane. Bob knows there are no other maintenance calls waiting and that Jane doesn't need to be home for John to make the repair. He finds John's comments totally inappropriate.

The water heater remains broken when Jane gets home that evening.



## Hypothetical Part 3: The Facts

**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 will make sure that her 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.



**Bob doesn’t tell anyone** at the PHA about John’s inappropriate offer to Jane as he thinks it is none of his business.



John conditioned his repair of the water heater on Jane's agreeing to shower with him. This amounts to a violation of the **Fair Housing Act**.



- The site manager should **NOT** have assigned John to make the repair, given his prior harassing conduct.
- The site manager or another employee assigned by the PHA should have investigated Jane's complaint, stopped John's harassment and taken steps to ensure Jane that she would be protected from any retaliation.
  - Fixing the water heater isn't enough; the PHA needs to stop the harassment.
  - The PHA must **enforce** employee standards of conduct against John: termination is appropriate.



- **Bob should tell his supervisor and/or the complaint coordinator, if one exists, about the condition he heard John place on making a repair.**
  - If John *is* Bob's supervisor, Bob should report the harassment to someone above John, even if he has to go outside his supervisory chain. For example, he might need to contact the PHA Executive Director or Board of Commissioners. He could also contact HUD's Fair Housing or Public Housing offices.





## Best Practices

**If you see something, say something. You should:**

- Intervene to disrupt or stop any inappropriate conduct you witness.
- Reach out to the victim, tell her/him that you will be reporting this to your supervisors and encourage her/him to also cooperate with investigators.
- Report harassment to the appropriate PHA official.

**The next week, Susan, the site manager's staff assistant, sees John touch Jane on her buttocks and then sees Jane slap his hand away.**

Jane and Susan both report this incident to the site manager.

Shortly afterward, the site manager threatens to discipline or demote Susan if she complains about John again.

Susan



In addition, **Jane gets a notice from the PHA stating that her assistance is being terminated** because she violated her lease by having an unauthorized occupant living in her unit.

However, **Jane doesn't have anyone else living with her** and has never even had an overnight guest.



It appears the PHA is terminating Jane's assistance because Jane and Susan complained about John's behavior.

Retaliation against a person because he or she complained about being sexually harassed is also illegal under the ***Fair Housing Act***.

The site manager's threat to discipline or demote Susan for reporting John's behavior also constitutes illegal retaliation under the ***Fair Housing Act***.

The ***Fair Housing Act*** provides protection from retaliation to any person who assists another in the exercise of Fair Housing rights. Here, Susan is assisting Jane by reporting John's harassment to the site manager.



## Best Practices

**Voucher program participants must be protected from harassment, too.**

**PHA employees should:**

- Educate owners that rent to voucher program participants about their ***Fair Housing Act*** obligations;
- Promptly investigate complaints from voucher program participants;
- Enforce HAP contract provisions and other rules if a voucher program owner engages in or fails to correct harassment by, e.g.:
  - Abating, suspending, or terminating the HAP contract, or prohibiting the owner's future participation in the PHA's housing programs; or
  - Asking HUD to enforce an LDP, suspension, or debarment to exclude persons/entities from HUD programs; and
- Work with voucher program participants to resolve complaints and ensure housing continuity.

- **What** is sexual harassment under the *Fair Housing Act*?
- **Who** is liable for sexual harassment?
- **Additional best practices** that PHAs can adopt to prevent and/or stop sexual or other forms of discriminatory harassment.

### Hostile Environment Harassment:

- **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.
- Can be created by a **single incident, if severe.**
- Violates the ***Fair Housing Act***, even if there is no termination of assistance, increase in rent, withholding of repairs, or similar act.



Thinking back to our hypothetical scenario,  
**did John create a *hostile environment* for Jane?**

The answer is **YES**.

His conduct created a hostile environment.



### John's conduct created a hostile environment because it was:

- Unwelcome
- Severe or pervasive (or both), and
- Interfered with Jane's enjoyment of her home because:
  - He repeatedly asked to spend time with Jane, even after she showed she was not interested.
  - He entered Jane's apartment with a key without knocking and without a legitimate reason.
  - He made comments about her body and asked Jane to put on a bikini.
  - He touched Jane without permission.

Some of John's conduct by itself was severe enough to create a hostile housing environment, specifically, John's unwelcome entry into Jane's apartment without a legitimate reason.



### Quid Pro Quo Harassment:

- Making a person's **submission to an unwelcome request** to engage in sexual conduct a **condition of** any aspect of obtaining or maintaining **housing or housing-related services**.
- Can be explicit or implied.
- A single quid pro quo act violates the ***Fair Housing Act***.

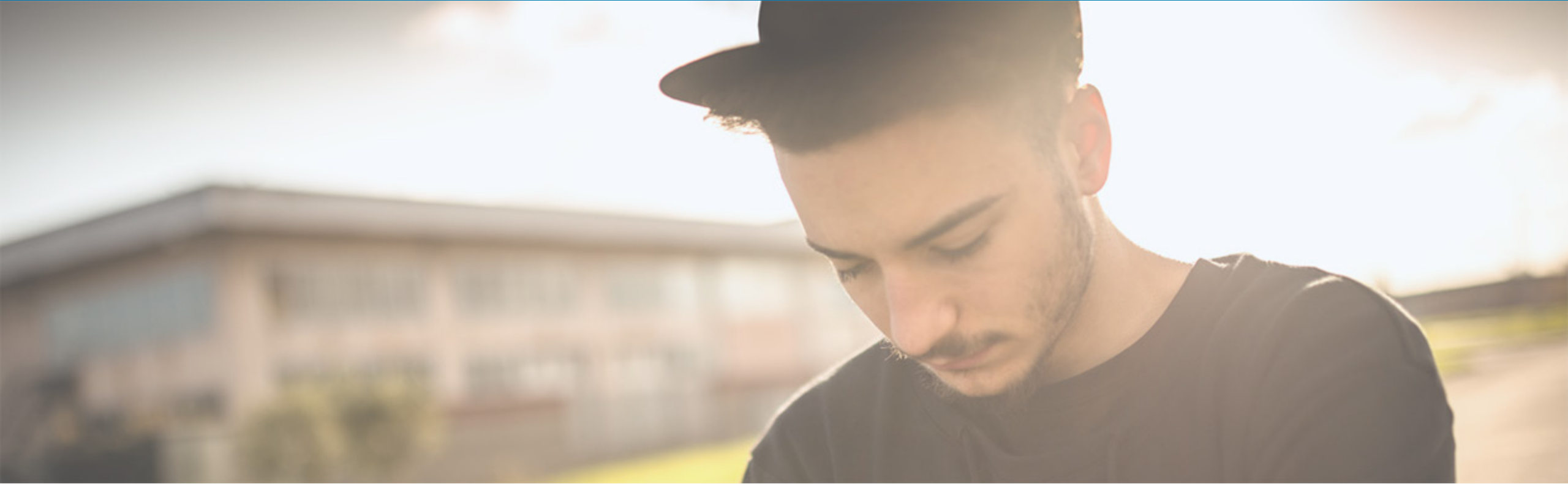
Did John commit *quid pro quo* harassment?

The answer is **YES**.

John committed quid pro quo harassment when:

- He refused to fix Jane's water heater unless she agreed to "test the shower out" with him.
- Even if Jane had agreed to participate in unwelcome conduct – to shower with him in order to get her water heater fixed - it's still sexual harassment.





- **BOTH hostile environment** and **quid pro quo** harassment violate the Fair Housing Act.
- **EITHER** type can lead to liability for the PHA.

**YES!** Any PHA employee is liable for their own discriminatory conduct.

John violated the *Fair Housing Act* in two different ways:

- He created a *hostile housing environment* for Jane.
- He also engaged in *quid pro quo* harassment.



### What about the PHA 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 PHA employees or agents—such as, subordinates or contractors—tenants, or HCV/PBV landlords, and property managers that **they knew or should have known about**.
- They are also liable if they **retaliate** against someone who complains about harassment.





### What about the PHA Site Manager?

#### Why, based on our scenario, is she liable?

- In our scenario, the site manager didn't engage in harassment herself. But she knew of John's harassment and did little or nothing to stop or correct it.
- As John's supervisor she could have, for example: given John a warning when Jane first complained, suspended him, or taken other action to address and stop his harassing conduct.
- She's also liable because it appears that she terminated Jane's assistance in retaliation for Jane's complaints and she retaliated against Susan for reporting the harassment by John that she witnessed.



**What about Bob? Is he liable based on our scenario?**

**NO.**

**He knew about John's harassing conduct, but he did not act as an accomplice to John's harassment or harass Jane himself, and he wasn't John's supervisor.**

- Bob's position as maintenance staff at the PHA does not provide him with the authority to correct or end the harassment of a co-worker.
- But Bob may have violated the PHA's code of conduct by failing to report the harassment that he witnessed.



Would the PHA be liable for John's harassment? **YES.**

PHAs are liable for:

- **Harassment or retaliation committed by employees/agents, *even if they don't know about it.***
  - This applies to **any** employee, regardless of position, and **any** agent, including contractors.
  - Here, the PHA is liable because both John, who harassed Jane, and the site manager, who retaliated against both Jane and Susan, are employees/agents of the PHA.
- **Failing to take actions within their power** to stop harassment by their employees/agents, landlords, or property managers that they **knew or should have known about.**
  - Here, the PHA is liable because it knew, through its site manager and Susan, of John's harassment and allowed it to continue without attempting to correct or end it.

- PHAs and their employees may be held liable through **HUD's administrative enforcement process**. If Jane filed a fair housing complaint with HUD, HUD would investigate the case and could file a lawsuit on her behalf before an administrative law judge (ALJ).
  - The ALJ can issue an order imposing liability, requiring payment of monetary relief to Jane and penalties, and mandating other relief.
- Also, PHAs and their employees may be held liable 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.

## Another Hypothetical Scenario

Bill lives in public housing and 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.

Neighbor



Bill





## Tenant-on-Tenant Harassment Also Violates the Fair Housing Act

**In this scenario, one tenant is racially harassing another.**

- PHAs and their employees are liable for **failing to take actions within their power** to stop one tenant from harassing another because of race, sex, disability, or any another protected characteristic if they **knew or should have known about it**.
  - But (unlike with harassment by agents/employees) PHAs cannot be liable for tenant-on-tenant harassment if they did not know or have reason to know about it.
  - “Should have known” means the PHA had info that would lead a reasonable person to conclude that harassment was occurring.
  - A PHA’s corrective action must not adversely impact the harassed tenant.
- The neighbor who harassed Bill is also liable for his own discriminatory conduct.



## Best Practices

### **Enforce lease provisions and other rules.**

- Issue oral and written warnings and notices of lease or rule violations.
- Terminate assistance and/or evict a harassing tenant if necessary.
- Do not take adverse action or retaliate against the harassed tenant.



- Harassment of a resident due to disability **violates the Fair Housing Act.**
- **A PHA could be liable** for not taking corrective action in response to a tenant complaint of harassment due to disability.
- **A PHA will also be liable** if its staff engages in disability-based harassment.



**PHAs and PHA employees** may be required to pay damages to victims for:

- **Psychological** harm;
- **Physical** harm;
- **Economic** harm.



- Victim's family members may be entitled to damage payments.

- Civil penalties up to nearly **\$103,000** for a first violation.
- Widespread harassment may result in settlements of *millions of dollars*.



Enforcement actions by the **U.S.**

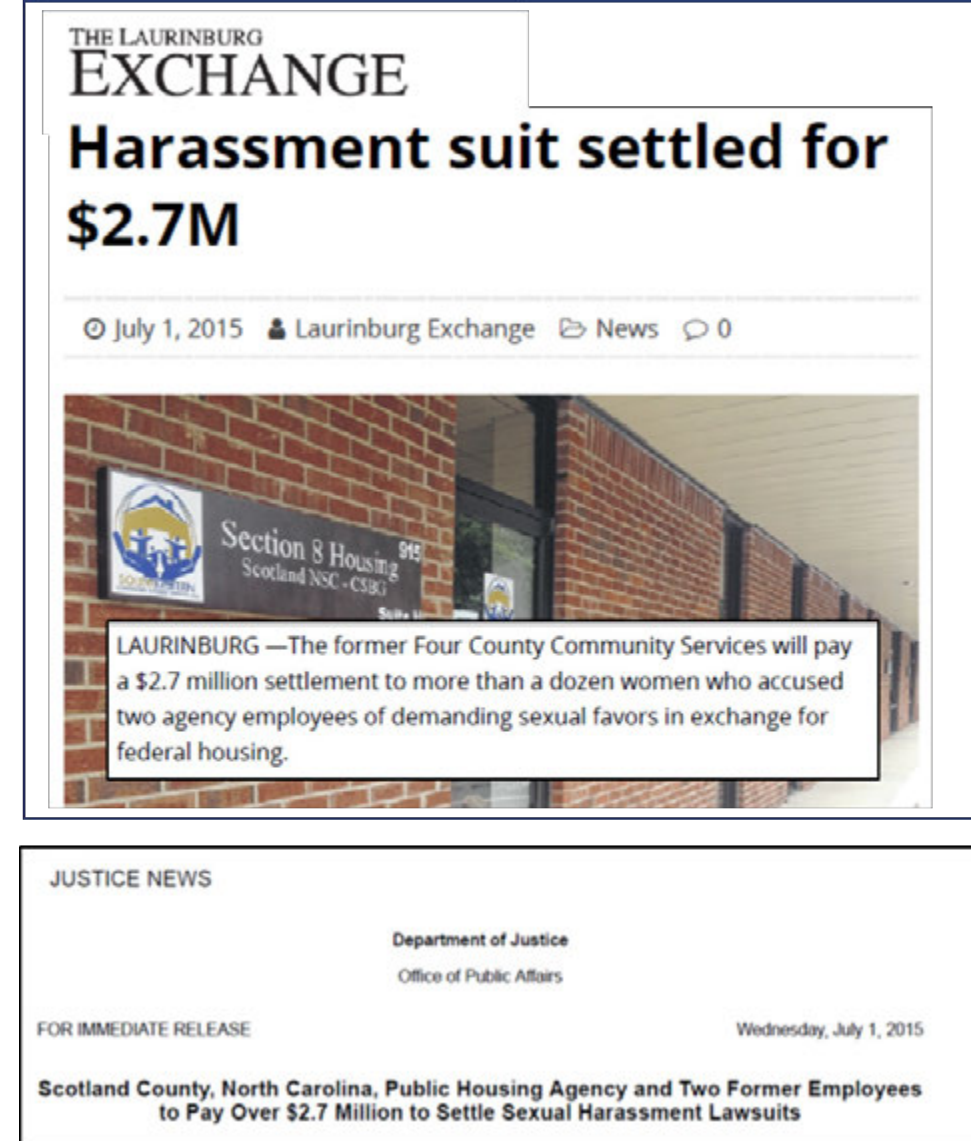
**Department of Justice Civil Rights Division**



### *United States v. Wesley, Pender and Southeastern Community and Family Services, Inc. (SCFS)*

Federal District Court • North Carolina • Filed 2014

- **SCFS** – Administers HCV Program in Scotland County, NC
- **\$2.7** million settlement
- **86 women** compensated
- **The complaint can be found at:**  
<https://www.justice.gov/sites/default/files/crt/legacy/2014/12/10/wesleycomp.pdf>
- **The settlement can be found at:**  
<https://www.justice.gov/sites/default/files/crt/legacy/2015/07/06/scfssettle.pdf>





### *United States v. Kansas City, Kansas Housing Authority (KCKHA)*

Federal District Court • Kansas • Filed 2016

- **KCKHA** – Public Housing Authority in Kansas City, KS
- **\$360,000** in damages for victims of sexual harassment
- **14 women** compensated
- **The complaint can be found at:**  
<https://www.justice.gov/crt/file/896361/download>
- **The settlement can be found at:**  
<https://www.justice.gov/Settlement%20Agreement%20United%20States%20v.%20Kansas%20City%2C%20Kansas%20Housing%20Authority%20%28D.%20Kan.%29/download>



LOCAL

KCK housing authority, former employees to pay  
\$360,000 for sexual harassment

BY TONY RIZZO  
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September 29, 2017 03:06 PM

The Kansas City, Kan., Housing Authority and three former employees will pay more than \$300,000 to settle sexual harassment claims.

The Department of Justice on Friday announced the settlement of a suit that had been filed by the federal government in 2015.



- **Money** does not rectify all harms done.
- **Impact** can be far-reaching.

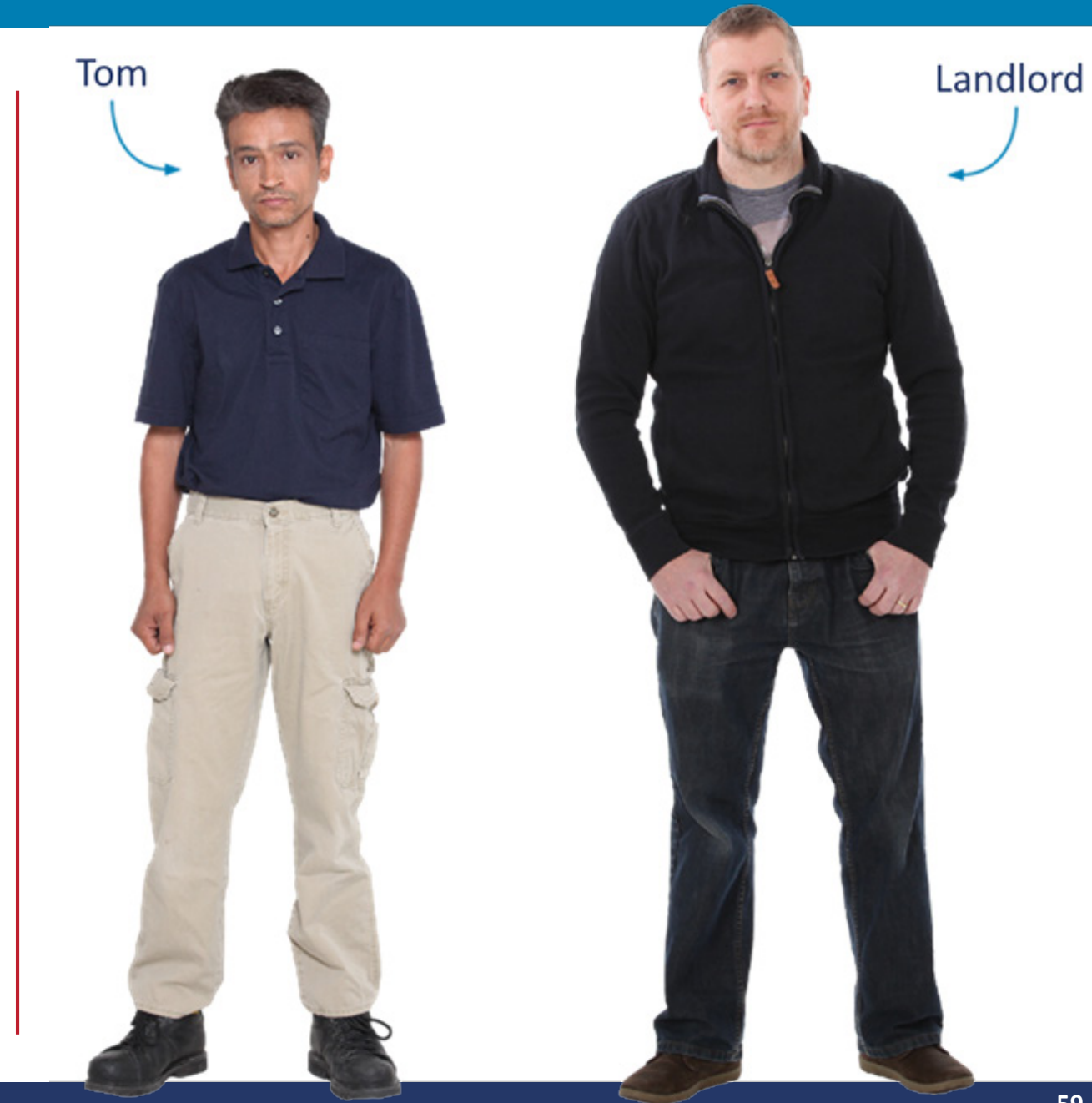




- **Mission Failure** – harassment undermines the PHA’s mission of providing safe, decent, affordable housing.
- **Operations Risk** – lawsuits can lead to HUD sanctions.
- **Asset Management** – resident fear of harassment and/or retaliation can lead to other property management issues.

Tom, who is gay, uses a Housing Choice Voucher to rent an apartment.

After Tom moves in, Tom's landlord learns that Tom is gay and issues him a notice of eviction.



- Tom's landlord can't do this.
- HUD's ***Equal Access Rule*** prohibits landlords who accept HCVs 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 to all PHAs regardless of their size. The ***Equal Access Rule*** also applies to the public housing and PBV programs.



## Best Practices

### **How can you be proactive about preventing harassment?**

- Talk to PHA leadership about shortcomings in existing policies and protocols for handling harassment complaints.
- Talk to residents/program participants to find out if they are experiencing (or have heard about others who are experiencing) harassment.
- Tell residents/program participants about their fair housing rights and where to report harassment.

## Best Practices

- Make sure that your PHA posts and distributes anti-harassment policies.
- Attend fair housing trainings that emphasize preventing harassment on a recurring basis, and ensure that the PHA provides all employees with time and access to such training.



## Where to File a Complaint

### A Fair Housing Act complaint can be filed:

- With HUD **online** at — [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/online-complaint](https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint);
- With HUD **by phone**: 800.669.9777; Federal (Relay Service/TTY: 800.877.8339);
- With a **state or local fair housing agency** — [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/partners/FHAP/agencies](https://www.hud.gov/program_offices/fair_housing_equal_opp/partners/FHAP/agencies);

In addition to filing a complaint, a person may wish to notify the **Department of Justice, Civil Rights Division**, which has authority for patterns or practices of discrimination: 1-844-380-6178; [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov); <https://www.justice.gov/crt/sexual-harassment-housing-initiative-how-report>.

### For Equal Access Rule complaints, PHAs should:

- Instruct residents to contact their **local HUD office**, which can be found at: [https://www.hud.gov/program\\_offices/field\\_policy\\_mgt/localoffices](https://www.hud.gov/program_offices/field_policy_mgt/localoffices).
- Direct residents to the following **website** for more information: [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/LGBT\\_Housing\\_Discrimination](https://www.hud.gov/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination)



## Questions?

Please email questions to:  
[HUDQuestions@hud.gov](mailto:HUDQuestions@hud.gov)

### Fair Housing Act and its Regulations, Equal Access Regulations

- Fair Housing Act, 42 U.S.C. §§ 3601 – 3619 (“the Act”), 24 C.F.R. parts 100, 103, 180.
- Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices Under the Fair Housing Act, 81 Fed. Reg. 63054 (Sept. 14, 2016), final rule (“Harassment Rule”)
  - Available at <https://www.gpo.gov/fdsys/pkg/FR-2016-09-14/pdf/2016-21868.pdf>
  - Codified at 24 C.F.R. § 100.600
- Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity, 77 Fed. Reg. 5662 (Feb. 3, 2012), as amended by Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs, 81 Fed. Reg. 64763 (Sept. 21, 2016), and Equal Access to Housing in HUD’s Native American and Native Hawaiian Programs – Regardless of Sexual Orientation or Gender Identity, 81 Fed. Reg. 80989 (Nov. 17, 2016) (“Equal Access Rule”)
  - Available at: <https://www.gpo.gov/fdsys/pkg/FR-2012-02-03/pdf/2012-2343.pdf>; <https://www.gpo.gov/fdsys/pkg/FR-2016-09-21/pdf/2016-22589.pdf>; and <https://www.gpo.gov/fdsys/pkg/FR-2016-11-17/pdf/2016-27196.pdf>
  - Codified at 24 C.F.R. §§ 5.105(a)(2), 5.106



### PIH Regulations and Notice

- **PIH Regulations:**
  - 24 C.F.R. § 966 - Public Housing Lease and Grievance Procedure;
  - 24 C.F.R. § 982 - Section 8 Tenant Based Assistance: HCV Program
  - 24 C.F.R. § 983 – Project Based Voucher (PBV) Program
- **PIH Notice 2014-20 (HA):**

**Program Eligibility Regardless of Sexual Orientation, Gender Identity, or Marital Status as Required by HUD's Equal Access Rule.**

  - Available at <https://www.hud.gov/sites/documents/PIH2014-20.PDF>

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Please visit the HUD Exchange website to register for trainings on “Preventing and Addressing Sexual Harassment in Housing” and to view relevant materials.

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You will receive an email with a link to a survey about this training.

Please use the survey to share your feedback about the training.

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