



Fair Housing 2021: What Counselors Need to Know
November 16-17, 2021

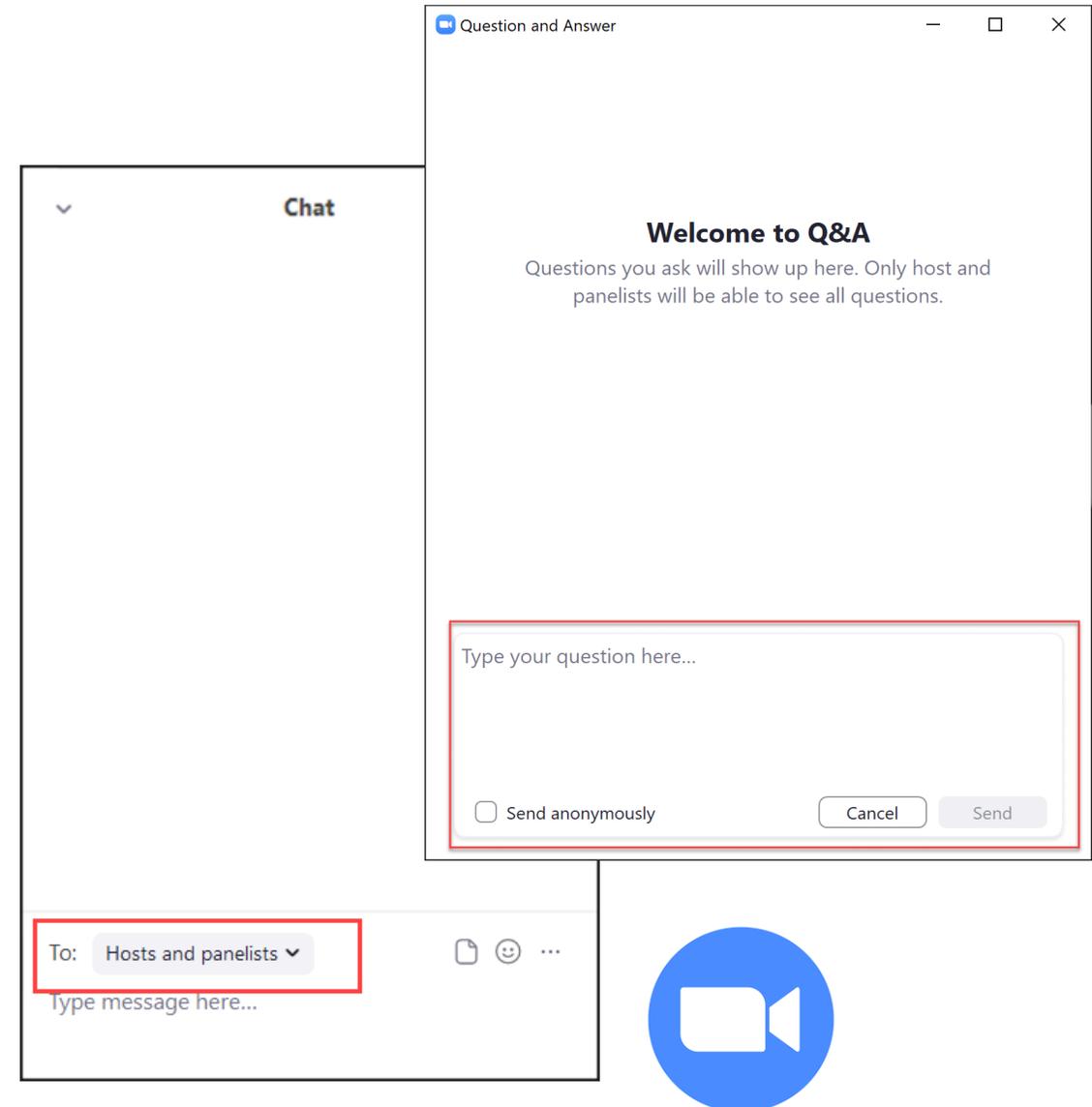


Fair Housing in Disaster Recovery

Wednesday, November 17th, 2021 | 3:00 PM – 4:00 PM

Questions?

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- Q&A
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Agenda

- Fair Housing and Disaster Recovery for Housing Counselors
- LEP Considerations in Disaster Recovery
- Race, National Origin and Color Discrimination: Considerations in Disaster Mitigation and Recovery
- Disability-Related Considerations in Disaster Recovery
- Housing Counselors' Partners

Speakers

- Olivia Healey, Analyst, Community Development, ICF
- Tzeitel Andino-Caballero, Deputy Director, Region II, HUD Office of Fair Housing and Equal Opportunity

Fair Housing and Disaster Recovery for Housing Counselors

Housing Counselors and Disasters

- Housing counseling agencies (HCAs) are well positioned to help homeowners, renters and homeless persons **before** and **after** a disaster given:
 - knowledge of federal, state and local resources and programs;
 - developed relationships with clients and underprivileged communities;
 - strong referral networks with the public, private and non-profit sectors;
 - insights into emergency response and relief efforts.
- HCAs help clients plan before a disaster and manage post-disaster difficulties, including navigating the complexities of disaster recovery assistance programs.
- HCAs have played key roles in the recovery from Superstorm Sandy; Hurricanes Katrina, Rita, Irma and Maria; and other disaster events such as wildfires, earthquakes, and flash floods.

Fair Housing and Disaster Supplemental Appropriations

HUD is flexible after any disaster and can waive many requirements, but civil rights requirements are un-waivable.

Disaster Supplemental Appropriations establish: “the Secretary of Housing and Urban Development may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment).”

Civil Rights Obligations in any Disaster

This presentation focuses on the legal obligations under:

- Fair Housing Act of 1968, as amended in 1988;
- Title VI of the Civil Rights Act of 1964, as amended;
- Section 504 of the Rehabilitation Act of 1973, as amended; and
- Americans with Disabilities Act (ADA), as amended.
- Section 109 of the Housing Community and Development Act of 1974.

In addition to these laws, those who are engaging in disaster may also be covered by:

- Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended;
- Post-Katrina Emergency Management Reform Act;
- Architectural Barriers Act of 1968;
- Communications Act of 1934, as amended;
- Individuals with Disabilities Education Act (IDEA) of 1975, as amended;
- The Age Discrimination Act of 1975, as amended;
- Executive Order 12898 (Feb. 11, 1994). Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
- Executive Order 13166 (Aug. 11, 2000). Improving Access to Services for Persons with Limited English Proficiency;
- Executive Order 13347 (July 22, 2004). Individuals with Disabilities in Emergency Preparedness; and
- Executive Order on Tackling the Climate Crisis at Home and Abroad (January 27, 2021).

Inclusion of Protected Classes in Disaster Mitigation and Recovery

Actions which exclude people based on:

- race,
- color,
- national origin,
- religion,
- sex (including sexual orientation and gender identity),
- familial status,
- age, or
- disability

have long-term negative consequences on entire communities and risk violation of fair housing laws.

Inclusion of Protected Classes in Disaster Mitigation and Recovery

This presentation will focus on the inclusion of:

- Limited English proficient (LEP) populations (on the basis of National Origin)
- People of Color (on the bases of Race, Color, and/or National Origin)
- People with Disabilities

Example of Fair Housing Disaster Issues

- After Superstorm Sandy, HUD investigated allegations against the State of New Jersey that it disproportionately denied recovery and rebuilding assistance to African American and Latinx persons.
- Allegations included insufficient outreach efforts to communities of color, low-income communities, and LEP communities evidenced by low application rates for CDBG-DR assistance.
- The State agreed to:
 - provide \$240 million in direct housing assistance to low-income households,
 - reevaluate all denied applications,
 - reopen programs for homeowners and renters who suffered losses due to the storm,
 - adopt a comprehensive language access plan, and
 - enhance outreach to the LEP population in multiple HUD-funded recovery-related programs.

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

LEP Considerations in Disaster Recovery

(Title VI of the Civil Rights Act of 1964)

Title VI Considerations in Disaster Recovery

Recipients of federal financial assistance engaging in

- disaster management, and
- emergency preparedness, response, mitigation and recovery activities

must ensure that individuals and communities affected by disasters do not face unlawful discrimination on the basis of national origin, including LEP.

Example: California Wildfires and LEP-Based Disparities in Disaster Recovery

When wildfires ravaged southern California in 2007, there were reports of discrimination against Latinx residents during emergency response and recovery efforts, including:

- Despite a large LEP population, vital information regarding evacuation was disseminated only in English, and interpreters were generally unavailable.
- Information was also not distributed in areas populated by migrant farmworkers.
- At sheltering sites, public employees required Latinx evacuees to produce proof of identity and residence before allowing shelter access.

Ways of Avoiding Discrimination Following Disaster:

- Evacuation and other emergency information should be made available in plain and simple language and translated to LEP languages, as identified by a Four Factor Analysis.
- Consider the literacy levels of the disaster population by disseminating information orally and using universal design formats.
- Ensure that emergency service providers not ask only persons of certain national origins for documents proving lawful immigration status.

Housing Counselors and LEP Considerations in Disaster

- Conduct a Four Factor Analysis and develop a Language Access Plan (LAP); Housing Counselors must be prepared to follow it.
- Be aware of local jurisdiction and State Language Access Plans.
- Educate LEP populations, immigration groups and other organizations about Fair Housing rights.
- Ensure LEP populations receive translated information about disaster recovery, including hotlines and information on relevant websites.
- Provide interpretation services for any non-English speaker.
- Ensure social security numbers are not required on emergency response or disaster related forms.
- Ensure aggrieved persons are aware of how to file discrimination complaints with HUD!

Race, National Origin and Color Discrimination: Considerations in Disaster Mitigation and Recovery

(Fair Housing Act of 1968, as amended in 1988;

Title VI of the Civil Rights Act of 1964, as amended; and
Section 109 of the Housing and Community
Development Act of 1974)

Discrimination on the Basis of Race, National Origin and Color: Considerations in Disaster

Communities of color have faced historical barriers to recovery programs, activities, and services.

Example: Hurricane Katrina and Discrimination in Disaster Recovery

Nondiscriminatory access to housing and shelters in the aftermath of Katrina posed a major challenge for communities of color.

- Many seeking temporary housing encountered discriminatory rental advertisements that explicitly refused to rent to African Americans. For example, an advertisement on a website designed to reach Katrina evacuees read: “Provider will provide room and board for \$400 but prefers two white females.”*
- Fair housing testers found that, in 66% of all tests, white persons seeking housing using contacts available to Katrina evacuees were favored over African American persons.

* See page 4 of DOJ Guidance: <https://www.justice.gov/crt/file/885401/download>

Example: Hurricane Katrina and Discrimination in Disaster Recovery

A federal court found evidence of intentional discrimination by St. Bernard Parish, which neighbors New Orleans, when the parish sought to restrict rental housing opportunities for African Americans in the parish, in violation of the Fair Housing Act by attempting to “preserve the pre-Katrina demographics of St. Bernard Parish.” Exclusionary practices included:

- halting the development of rental housing.
- enacting a permit requirement for single-family rentals that exempted renters who were “related by blood” to the homeowners.
- eliminating multi-family housing in large portions of the parish.
- repeatedly attempting to block the development of multi-family affordable-housing.

Best Practices to Avoid Discrimination Following Disaster:

- Educate residents, housing providers, and real estate professionals about fair housing protections.
- Proactively work with local jurisdictions to develop rental housing for disaster victims in high opportunity areas.
- Be alert to localities developing (or prohibiting) multi-family housing for infrastructure works (new roads, schools, parks, etc.).
- Develop an anti-discrimination media campaign to combat discrimination and debunk NIMBY-ism myths concerning rental housing for disaster victims.

Considerations in Disaster Recovery Programs to Avoid Discrimination

- Leverage community resources, leaders and organizations to deliver group educational sessions to support fair housing awareness in communities of color.
- Encourage clients to participate in opportunities for community input regarding recovery planning
- Be aware of program benefit limitations, caps and thresholds that are related to home or property values that historically are lower in segregated communities of color.
- Be aware of geographic exclusions that may deny assistance to harmed communities of color (e.g. Relief for coastal flooding where property values are high, but not wind damage to inland communities with lower property values and higher population of persons of color).
- Encourage and support applications for assistance despite limitations that implicate possible discrimination
- Help impacted persons get in touch with fair housing staff at HUD or local fair housing organizations to discuss possible discrimination
- A complaint of discrimination doesn't mean discrimination has happened, but that a person has reason to believe it may have occurred. HUD's fair housing staff can help collect information to see if discrimination has occurred.

Disability-Related Considerations in Disaster Recovery

(Fair Housing Act of 1968, as amended in 1988;

Section 504 of the Rehabilitation Act of 1973, as amended; and the Americans with Disabilities Act (ADA), as amended.)

Disability Considerations in Disaster

- Individuals with disabilities face unique barriers due to inaccessible evacuation, response (including shelters, camps, and food distribution), and recovery efforts.
- Disabilities can impact a person in a variety of ways—both physical and mental, visible and invisible. Therefore, there is not one approach to inclusion of persons with disabilities.

Disability Rights during and after a Disaster

- Reasonable accommodations
- Reasonable modifications
- Accessible housing

Reasonable Accommodations after Disaster

Persons with disabilities must access shelters, hotels and temporary housing that can meet their health and safety needs:

- Persons with diabetes or other medical conditions may need a special diet, refrigerator access for certain medications, etc.
- Persons with autism, hyperacusis and other sound sensitivity conditions may need a quiet space, ear plugs, noise-canceling headphones and other noise control accommodations.
- Persons with physical disabilities may require private areas for personal care.
- Persons with disability-related needs for service animals who require waiving “no pets” policy (service animals are not pets).
- Persons with disabilities may require shelters with special services to provide attendant care or to remain sheltered with family or aides.

Disability Considerations during Post-Disaster Re-Housing

- Many persons with mobility impairments require accessible housing, which is difficult to find and usually in housing programs with little to no availability and wait lists.
- Persons with physical and mental disabilities need access to medical care and other supportive services.
- Persons with disabilities should not be separated from families to access transitional or other types of housing.
- Nursing homes and other restrictive settings are not appropriate transitional housing sites for persons with disabilities who have evacuated from independent living.
- Newer construction housing may include more accessibility features.
- Unique disability-related needs requiring post-disaster reasonable accommodations and reasonable modifications.

Issues with Recovery and Accessibility

- Homeowner assistance programs that limit assistance to cover accessibility features may violate the law.
- Homeowners with disabilities may need exceptions to limits on assistance to ensure replacement housing that incorporates accessibility.
- This is especially important when homes are located in areas that require elevation under revised floodplains.

Housing Counselors and Disability Considerations in Disaster

- Educate clients, emergency response agencies and other stakeholders on disability civil rights before, during, and after a disaster. Remember: **un-waivable!**
- Partner with landlords and offer to link their accessible rental homes with Section 8 voucher holders and assist persons with disabilities to request reasonable accommodation for higher rental assistance payments.
- Help persons with disabilities identify reasonable accommodation and/or modification needs and perfect their requests before housing providers.

Leveraging the Housing Choice Voucher Program during Post-Disaster Re-Housing

- Advocate for higher payment standards in the HCV program as a reasonable accommodation for clients with disabilities.
 - Any PHA may, without HUD approval, establish an exception payment standard of up to 120% of the Fair Market Rent (FMR) if required as a reasonable accommodation, 24 CFR § 982.505(d).
 - A PHA may establish a payment standard greater than 120% of the FMR by submitting a request to HUD, 24 CFR §982.505(d).

Counseling for HOPA Re-Housing

Take advantage of post-disaster flexibilities for Housing for Older Persons Act (HOPA) communities when available.

- FHEO's Assistant Secretary has issued HOPA exemptions which last for 1 year after a Presidential disaster declaration.
- Authorizations allow 55-and-over communities to house disaster evacuees younger than age 55 without affecting 80% and 20% calculations and, hence, not jeopardizing HOPA status.
- Good source of accessible housing.

Rapid Re-Housing after a Disaster

- Identify which FEMA and HUD emergency housing programs are being made available in the jurisdiction
 - FEMA: short-term emergency sheltering, interim housing (Individuals and Households Programs), financial/direct assistance (Multi-Family Lease; Repair, Transportable Temporary Housing Assistance and Direct Lease), Home Repair and Home Replacement programs.
 - HUD: Disaster Housing Assistance Program (DHAP), CDBG-DR, CDBG-Mitigation, etc.
- Periodically contact the local HUD office to identify occupancies at subsidized developments.
 - Public Housing, Section 8 project-based, 202/811, Mod Rehab, LIHTCs with HOME and other rental subsidies, 232 residential care facilities, etc.

Housing Counselors' Partners

Non-exhaustive listing:

<https://files.hudexchange.info/resources/documents/OHC-DR-Toolkit-Partners-for-Disaster-Recovery.pdf>

How to file a discrimination complaint

Online, Mail or

Email: https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint

Phone:

Call 1-800-669-9777 or 1-800-877-8339 (Relay).

Resources

- [Housing Counseling Disaster Recovery Toolkit](#)
- [Fair Housing and Equal Opportunity Disaster Toolkit](#)
- [FHEO Requirements for Disaster Recovery and Mitigation Programs](#)
- [HUD's Disaster Resources Webpage](#)
- [DOJ Guidance to Governments and Other Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964](#)
- [Emergency Management Under Title II of the ADA](#)
- [Civil Rights in Emergencies and Disasters- Homeland Security](#)
- [Your Civil Rights And Disaster Assistance – FEMA](#)
- [The ADA Checklist for Emergency Shelters](#)
- [FEMA's Guidance on Planning for Integration of Functional Needs Support Services in General Population Shelters](#)

Questions?

Or contact your Regional HUD office:

- [Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont](#)
- [Region II: New Jersey, New York and the Caribbean](#)
- [Region III: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia](#)
- [Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee](#)
- [Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin](#)
- [Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas](#)
- [Region VII: Iowa, Kansas, Missouri, and Nebraska](#)
- [Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming](#)
- [Region IX: American Samoa, Arizona, California, Guam, Hawaii, and Nevada](#)
- [Region X: Alaska, Idaho, Oregon, and Washington](#)

Fair Housing

**It's not an option.
It's the LAW!**



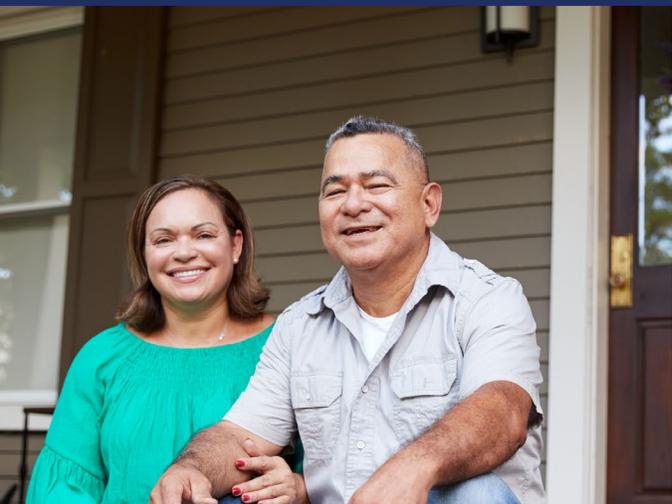
**EQUAL HOUSING
OPPORTUNITY**

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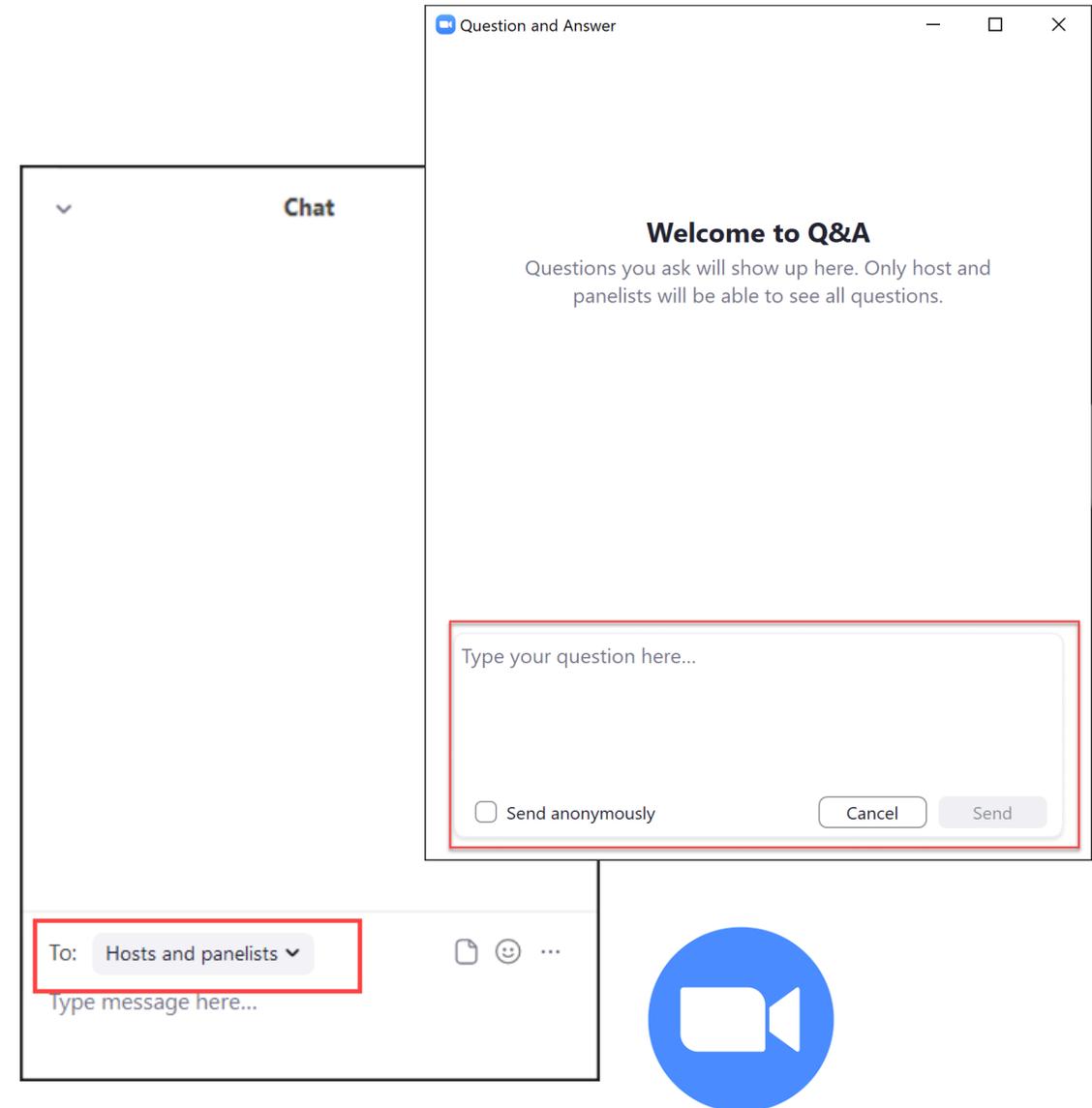


Closing

Wednesday, November 17th, 2021 | 4:00 PM – 4:45 PM

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Agenda

- Final Q and A
- Conference Wrap Up

Speakers

- Shawna LaRue Moraille and Olivia Healey, Technical Assistance Providers, ICF
- DeAndra Cullen, Deputy Assistant Secretary, Office of Policy, Legislative Initiatives, and Outreach, HUD Office of Fair Housing and Equal Opportunity
- David Berenbaum, Deputy Assistant Secretary, HUD Office of Housing Counseling

Final Q and A

Conference Wrap Up

Polling

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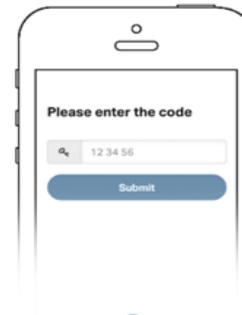
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Office of Housing Counseling & Fair Housing Equal Opportunity



- **Event Webpage:**
<https://www.hudexchange.info/programs/housing-counseling/fair-housing-conference-2021/>
- **Find us at:**
www.hudexchange.info/counseling
- **Email us at:**
Housing.counseling@hud.gov

Continue the Conversation on Whova!

- Whova will still be open post conference for at least another week
- Outstanding questions will be addressed

Web App Link:

https://whova.com/portal/webapp/ohcfh_202111/

[Invitation Code: FairHousing2021](#)





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Thank You for Attending!