



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

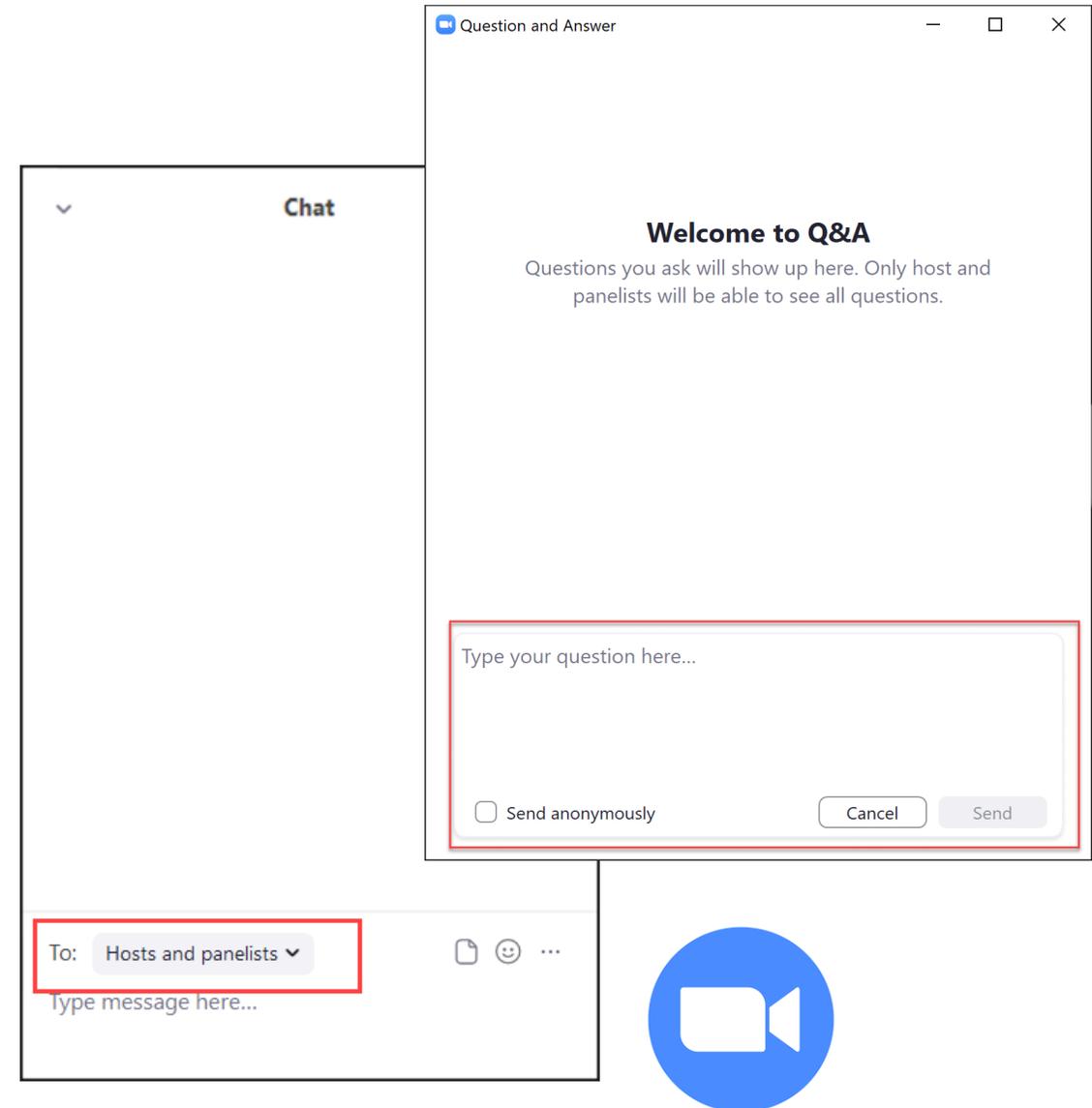


# LGBTQI+ Protections under the Fair Housing Act and in HUD Programs

Wednesday, November 17<sup>th</sup>, 2021 | 1:30 PM – 2:30 PM

# Questions?

- Participants are in listen only mode
- Chat
  - Submit any technical issues via the Zoom Chat box
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- Q&A
  - Submit any content related questions via the Zoom Q&A box
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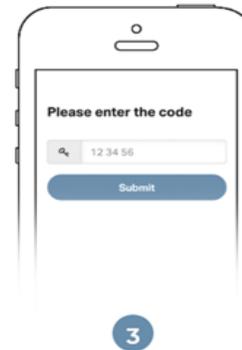
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# Agenda

- LGBTQI+ Protections Under the Fair Housing Act (FHA)
- HUD's Equal Access Rule
- Enforcing LGBTQI+ Protections
- Resources
- Q & A

# Speakers

- Sid Alvarado, Technical Assistance Provider, ICF
- Joseph Carroll, Program Analyst, Program Standards Compliance, HUD Office of Fair Housing and Equal Opportunity

# LGBTQI+ Protections Under the Fair Housing Act (FHA)

# LGBTQI+ Protections under the Fair Housing Act

- In [\*Bostock v. Clayton County\* \(590 U.S. \(2020\)\)](#), , the Supreme Court held that Title VII of the Civil Rights Act of 1964's prohibition on discrimination "because of...sex" covers discrimination on the basis of gender identity and sexual orientation.
- *Bostock* is a landmark case for fair housing law because FHA's sex discrimination provisions are comparable in text and purpose to those of Title VII.

# LGBTQI+ Protections under the Fair Housing Act

- President Biden issued [Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#)
- HUD issued memorandum entitled, [“Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act \(Feb.11, 2020\),”](#) which announced new LGBTQI+ protections under the Fair Housing Act.



# The Fair Housing Act (FHA), Title VIII of the Civil Rights Act of 1968, as amended



The Federal Fair Housing Act includes protections on the basis of:

- Race
- Color
- Religion
- National Origin
- Sex (including gender identity and sexual orientation)
- Familial Status (including pregnancy and adoption)
- Disability

# LGBTQI+ Protections under the Fair Housing Act

- Persons who identify as Lesbian, Gay, Bisexual, Transgender, Intersex, and/or Queer (LGBTQI+) who believe they have experienced housing discrimination because of their sexual orientation and/or gender identity, can now assert their rights under the Fair Housing Act by filing a complaint with HUD.
- HUD will investigate the complaint and where reasonable cause exists to believe that discrimination because of sexual orientation or gender identity has occurred, HUD will refer a “determination of cause” for charge by HUD’s Office of General Counsel.
- Additionally, state and local agencies that participate in HUD’s Fair Housing Assistance Program must also administer their civil rights laws in accordance with *Bostock* and Executive Order 13988.



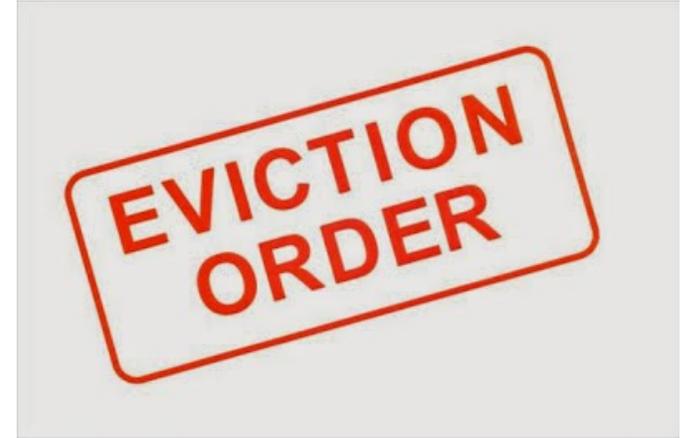
# Examples of LGBTQI+ Discrimination

- A landlord refuses to rent a house to a same sex couple but rents to couples of the opposite sex.
- A transgender tenant reported to their housing provider that a maintenance worker was harassing them because of their gender identity and the housing provider did not take action to protect the tenant from such harassment.



# Examples of LGBTQI+ Discrimination

- A transgender female tenant (who was designated male at birth) is asked by the owner of their apartment building not to dress in feminine or other gender non-conforming clothing in the common areas of the property.
- A bisexual tenant is evicted after the housing provider meets the tenant's same-sex partner.



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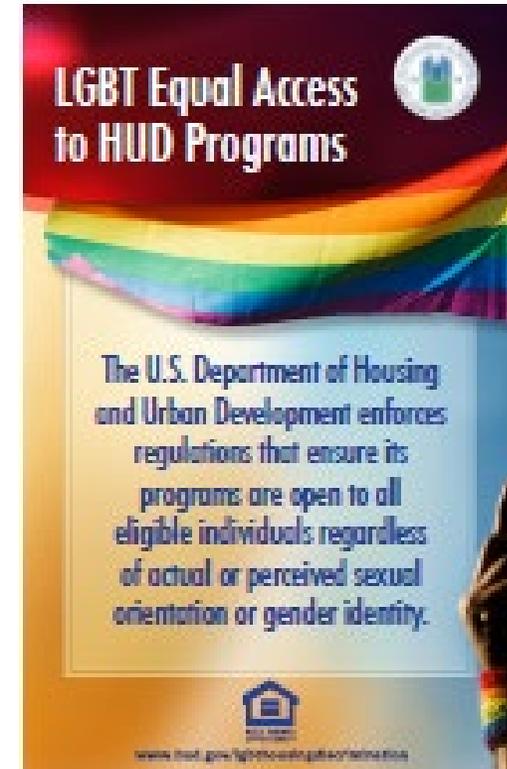
# HUD's Equal Access Rule

# HUD's Equal Access Rules include LGBTQI+ Protections

HUD's [Equal Access Rule](#) requires equal access to HUD programs without regard to a person's actual or perceived:

- sexual orientation,
- gender identity, or
- marital status.

Housing providers that receive HUD funding or have HUD-insured loans are subject to this regulation.



# HUD's Equal Access Rule includes LGBTQI+ Protections

HUD has issued three rules related to equal access in its programs:

1. [Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs Rule](#)
2. [Equal Access to Housing in HUD's Native American and Native Hawaiian Programs-Regardless of Sexual Orientation or Gender Identity](#)
3. [Program Eligibility in Multifamily Assisted and Insured Housing Programs in Accordance with HUD's Equal Access Rule](#)

## Examples of Discrimination under HUD's Equal Access Rule

- An underwriter for an FHA-insured lender is reviewing a loan application by two males; both incomes are being used as the basis for the applicants' credit worthiness. The underwriter assumes the applicants are a gay couple and, as a result, denies the application despite the fact that the applicants meet all requirements for the loan.
- This would violate HUD's Equal Access Rule, which prohibits FHA-insured lenders from taking actual or perceived sexual orientation into consideration in determining the adequacy of an applicant's income.

## Examples of Discrimination under HUD's Equal Access Rule

- A transgender woman sought housing at a HUD-funded women's homeless shelter and during the intake process the shelter staff refused to address her as female, misgendered her, and made other statements to discredit her gender identity.
- The shelter staff refused to shelter the transgender woman at the facility but offered to place her in a man's shelter or in isolation.

# Examples of Discrimination under HUD's Equal Access Rule

- A PHA asks a woman who has applied for assistance under a PHA's HCV program to update her eligibility information prior to the PHA issuing a voucher. She brings another woman with her to the PHA office. While completing program verifications, her companion puts her arm around her. The PHA's occupancy specialist believes that the women are lesbians and denies the woman's application because of perceived sexual orientation.
- The actions taken by the PHA's occupancy specialist constitute a violation of the EAR by the PHA because the denial of housing assistance was based on perceived sexual orientation.

Enforcement

# Enforcing LGBTQI+ Protections

Know Your Rights Under the Fair Housing Act and HUD's Equal Access Rule

- It is prohibited under the Fair Housing Act (or the EAR if a HUD assisted or insured housing program) for any landlord or housing provider to discriminate against LGBTQI+ persons because of their real or perceived sexual orientation or gender identity or any other reason that constitutes sex-based discrimination.
- It is unlawful sex discrimination for any landlord or housing provider to deny housing because of someone's actual or perceived HIV/AIDS status under the Fair Housing Act (or the EAR if a HUD assisted or insured housing program) if based on a housing provider's stereotyping of LGBTQI+ individuals.



## Enforcing LGBTQI+ Protections (cont'd)

- It is unlawful for a lender to deny an FHA-insured mortgage to any qualified applicant based on their sexual orientation or gender identity under both the FHA and EAR.
- It is unlawful for HUD-assisted homeless facilities to segregate or isolate transgender individuals based on their gender assigned at birth.



# Enforcing LGBTQI+ Protections

- **Online.** You can file a complaint with FHEO online in [English](#) or [Spanish](#).
- **Email.** You can download [this form](#) (also available in [Arabic](#), [Cambodian](#), [Chinese](#), [Korean](#), [Russian](#), [Somali](#), [Spanish](#), and [Vietnamese](#)) and email it to your local FHEO office at the email address on [this list](#).
- **Phone.** You can speak with an FHEO intake specialist by calling 1-800-669-9777 or 1-800-877-8339. You can also call your regional FHEO office at the phone numbers on [this list](#).
- **Mail.** You can print out [this form](#) (also available in [Arabic](#), [Cambodian](#), [Chinese](#), [Korean](#), [Russian](#), [Somali](#), [Spanish](#), and [Vietnamese](#)) and mail it to your regional FHEO office at the address on [this list](#).

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# Resources on LGBTQI+ Housing Protections

- [Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act](#)
- [Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#)
- [Application to the Fair Housing Act of the Supreme Court's decision in Bostock v. Clayton County, GA](#)
- [HUD's Webpage on Housing Discrimination and Persons Identifying as LGBTQ](#)
- [HUD's Webpage on LGBTQ Resources](#)
- [Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity](#)
- [Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs Rule](#)
- [Equal Access to Housing in HUD's Native American and Native Hawaiian Programs-Regardless of Sexual Orientation or Gender Identity](#)

# 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](http://www.hudexchange.info/counseling)
- **Email us at:**  
[Housing.counseling@hud.gov](mailto:Housing.counseling@hud.gov)

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**Thank You for Attending!**