

**Fair Housing 2021: What Counselors Need to Know**

**Opening with Office of Housing Counseling Deputy Assistant  
Secretary and Office of Fair Housing and Equal Opportunity  
Deputy Assistant Secretary**

**Fair Housing in Practice Responsibilities, Guidance, and Tools**

**Tuesday, November 16, 2021**

Shawna LaRue Moraille: Good morning or good afternoon, depending upon where you're located. I'm Shawna LaRue Moraille from ICF. And we are so pleased to welcome you to Fair Housing 2021: What Housing Counselors Need to Know. And we are excited about this joint office effort at HUD from the Office of Housing Counseling and from the Office of Fair Housing and Equal Opportunity. And we are thrilled that you're here with us today.

And we're going to kick off the conference with this opening, with the offices' deputy assistant secretaries, and get you oriented to the conference, do some polling to find out who is here. But just wanted to welcome everyone. And ICF team is behind the scenes. We're HUD's technical assistance provider. And please let us know if you need anything.

So while we get started here on the technology, I really want to encourage you that if you have any technical issues, to please use the chat box that you'll see here. And if you chat with us in Zoom, we'll be able to best assist you with your technical issues. And if you do have any questions for the panelists, and this session actually rolls into fair housing in practice afterwards, you are going to want to use that Q&A box in Zoom to answer all -- or ask all of your content related questions. So we're here. We're live on Zoom. And you joined the session in listen only at this time.

So we do want to get started with a couple of Mentimeter questions. So if you can go to menti.com. And you can use a separate device such as your laptop, or your phone, or something like that. And we will put in the link to Menti. And you can go ahead and log on. And if you could just hit the heart, let us know that you're here. And we're just going to go ahead and get started finding out about you, what you're most looking forward to related to the conference.

So I see we've got really good participation so far in terms of who is here. You can use the link that I put in the chat box and that gets you directly to Menti. You can also log in through menti.com and use the code that's at the top of my screen too if you prefer, which is 3459 6416. And this will be the link for both today and tomorrow.

So let's go ahead and find out what the first question is here. We want to find out who is here in the audience. And so we have 1,175 of you. We're so excited that so many of you are here. Many of you represent local housing counseling agencies. Some of you might be a HUD intermediary or a state housing finance agency, a multi-state organization. Some of you might be affiliates of those organizations as well. So it'd be really helpful for you to do -- for you to let us know who's here. And then we may have some non-housing counseling agencies as well. This conference is built for housing counseling agencies. But we're glad that you're here as well, and can't wait to engage with you in the conference.

So we've gotten a lot of fast participation here. It's exciting to see these numbers. Lots of folks representing local housing counseling agencies. There are so many of you and we are also really glad that you are here. Again, use the menti.com. The code 3459 6416 is at the top of our screen right now. Or you can use the link in the chat box that goes directly to menti.com. That's a new feature that Mentimeter offered is a direct link. So hopefully most of you are getting in there.

And we really want to know who is here, not that we don't have the registration list, but as we engage with you throughout the conference today and tomorrow, this gives us a sense as to what type of organization you are. And then when you provide feedback about maybe what [inaudible] housing work you're doing, or how you're working around fair housing with your clients, some best practices, other things you're going to share in Mentimeter. It's just really important that we're able then to track it back to the type of organization. It gives us the best data that we will share with HUD, and be able to better serve you also in the future. So we do have, yeah, sessions are today and tomorrow. And we've got two full sessions.

So our final question in Mentimeter to get us started today is that we really want to know what are you most excited about. We have so many sessions planned for you, lots of rich engaging sessions. And we want you to tell us, what are you most excited about? Maybe you're here for limited English proficiency. Maybe you are serving a lot of folks with disabilities and really want to hear from experts around disability and serving them. Maybe you're doing some fair housing in disaster areas. So all the sessions that we're planning to do today, as well as tomorrow, are included here. So we definitely want to make sure that you tell us what you're looking most forward to.

And so far we're getting an incredible amount of folks saying they can't wait for the session that will start immediately after this opening, which is fair housing in practice, and getting down like the basics. So it sounds like most people are interested in that. Maybe with the second in terms of fair lending. And there's already been quite a bit of questions on Whova related to fair lending as well. So we will keep Mentimeter going on in the background. We certainly want you to let us know which session you're most interested in learning about this week. So keep those votes coming in and we'll revisit it later.

So as I mentioned, I'm Shawna LaRue Moraille from ICF. I am joined here by my colleague, Olivia Healey, who will talk to you next about Whova and make sure that you're oriented to that feature of the conference, which is our networking software. Olivia?

Olivia Healey: Thanks, Shawna. I will review the Whova platform and be able to orient you guys to how you can utilize the software throughout the live event. This platform was really added here as a benefit to you guys to kind of add in the networking opportunities that are missed from a virtual delivery. And making sure that you know where to access all of the information is going to be the key to your success.

So Whova, you will would have received an email after registration with the information to join. And you can download it as an app on your phone or you can also view a web browser version of the application. The web browser application is what I'm going to demo everything on today. And then we will be available through the chat function here or within Whova for any questions if you're having any difficulty. When you join the platform, this is the home dashboard, and it provides an overview of the conference. And you'll also see an activity feed here to your right.

As you move down the left hand side of your screen, that is your navigation bars that you can move throughout the platform. This agenda tab will provide the agenda for a live event, and it also gives you an opportunity to join the sessions, in addition to the email links that you

received. And the fun feature about this agenda is if you're not able to attend the whole conference, you're able to customize your own agenda by adding the items to your agenda. So obviously coming to this session and added it to my personal agenda.

There's a speakers tab that falls underneath the agenda tab. And this will provide the entire dashboard of speakers that we have throughout our conference. On the attendees tab you'll be able to find yourself, in addition to all of the speakers. This top right hand corner is how you can customize your own profile. I added a picture of myself, added some of the interests, my company, my education. And if you choose to add any of that information, you're able to. Adding in the information builds out your recommended tab. So based on some of my interests, it's letting me know other colleagues or conference attendees that I can continue conversations with. And it will continue to update as others engage and update their profiles throughout the event.

The community tab is also a really useful tool to use throughout. We've created a community board for every session, where it provides an area for you to submit questions leading up to any live session during the session or afterwards. And we'll use that to either influence a live session if you've done it beforehand, or follow up with you afterwards if you didn't get your questions answered.

One really important one to point out is David and DeAndra's Corner. You're able to interact with the DAS of both HUD offices, which is a really unique opportunity. And they really want you to know that they're here to engage and answer your questions. You also have the opportunity to add your own community board. But we ask if you have questions pertaining to the topics of our conference, you do find that board that we've already created.

And the final item that you guys can use throughout the event is this messaging tab. And that's your way to interact one on one with colleagues. And Sussette, thanks for the sweet message of this is an awesome way to network. The final item, not necessarily a need to interact with the dashboard, but the fun part of this is that you get ranked different points through your interactions. And you can make your way up the leaderboard. So it looks like Zach's in the lead right now. So congrats. And David, you're falling down the line as we joked about earlier today. And you're able to congratulate each other for making such great engagement on our platform.

The final quick item just to note is throughout this conference you can access our conference website here or directly on the HUD Exchange. And this will be an area for you to find the slides for each of our presentations, and also just an overall documented agenda, and be able to refer to this past our conference delivery. With that being said, I'm going to bring the presentation back up for Shawna.

Shawna LaRue Moraille: Yeah. Thank you so much, Olivia. And it's our pleasure to introduce DeAndra Cullen. She's Deputy Assistant Secretary for the Office of Policy, Legislative Initiatives, and Outreach, in HUD's Office of Fair Housing and Equal Opportunity. DeAndra?

DeAndra Cullen: Welcome to the Joint Fair Housing and Housing Counseling Conference. I promise you I will be short and sweet. My name is DeAndra Cullen. I am the Deputy Assistant

Secretary for FHEO's Office of Policy, Legislative Initiatives, and Outreach. I want to thank my colleague, David Berenbaum, for supporting this teach in, and for finding the true value of this important training. I look forward to our continue collaboration and partnership.

I am so excited to work collaboratively with all of you, the housing counselors, and my colleagues at the Office of Housing Counseling. It's crucial that HUD continue to support meaningful collaboration amongst our FHIPs, our FHAPs, and housing counseling agencies. Your efforts on the front line make a real difference in the lives of those we serve. There is nothing, I mean nothing more meaningful than knowing that together we are improving the quality of someone's life. Your contributions matter.

We know all too well that there are significant disparities in home ownership, especially in communities of color. We all recognize the struggles many face or experience when they seek to rent or own a home. You understand the complex nature of these processes. You stand with the individuals as they work through them. And that is an extraordinary undertaking. And when you think about all of the fair housing, and civil rights laws, and regulations, and policies, and obligations, and the list of course goes on, you can expect that your clients will quickly become overwhelmed.

That's why your participation today and tomorrow is so important. Ideally this training will supplement your existing housing counseling expertise, and help you identify and flag fair housing violations, if and when they occur. Our mission in fair housing is to work to eliminate housing discrimination, and achieve diverse inclusive communities. Additionally we ensure limited English proficient individuals have meaningful access to HUD programs. We strive to make sure affordable housing is integrated into all communities equitably. Our office is unique and that it applies to all of HUD's programs. Moreover we are key to many other federal programs such as education, transportation, health and human services, agriculture, consumer finance, and environmental justice, just to name a few.

In FHEO there are several laws and regulations we enforce to protect the fair housing rights of individuals who are members of one or more of the seven protected classes. Such laws include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing Community Development Act of 1974, and Titles II and III of the Americans with Disabilities Act of 1990. We know that our enforcement authority has a broad reach. However this training will primarily focus on the Fair Housing Act of 1968.

Over the course of the next two days our experienced and engaging fair housing trainers will covers key topics that will help you issue spot fair housing matters throughout your counseling services. Such topics will include rights for persons with disabilities, credit and lending discrimination, LGBTQ+ protections under the Fair Housing Act and in HUD programs, reaching limited English proficient or LEP populations, fair housing and disaster recovery. So you see, there will be plenty, and I mean plenty of opportunities for you to learn about fair housing.

We hope you'll see the nexus between the work you do everyday and our work in Fair Housing and Equal Opportunity. Together we will commit to ensuring that this country realizes the full

promise of the Act, fair and equitable housing for all who call America home. Thank you for your interest in learning how fair housing and housing counseling intersect to assist those who need and utilize our services.

Without further ado, and to make good on my promise to be short and sweet, I will now turn you over to Deputy Assistant Secretary of the Office of Housing Counseling, David Berenbaum. Thank you.

David Berenbaum: Welcome. And thank you for joining us and close to 1,200 of your housing counseling colleagues today. DeAndra, I would like to begin by thanking you and your team for working so diligently with the Office of Housing Counseling and ICF to ensure the success of this program and to ensure we are responsive to the needs of the housing counseling community.

Together working with FHEO and with each of you in the audience as leaders in our communities, we must continue to work in the vineyards to realize Senator Mondale's words when the Fair Housing Act was passed only after the assassination of Dr. Martin Luther King. To quote Senator Mondale, the view of how America speaks is reflected in our laws. And one of the laws is fair housing. It very clearly prohibits discrimination on the sale and rental of housing in America.

It's been a sad fact of American life that this practice of discrimination in so many communities has been quite the opposite of that ideal. That's why we passed this bill, to make a change. There's a lot of bad consequences that flow from segregation. The kids don't do as well. We live separately. We don't learn about each other. We're all Americans and yet we separate based on basically race. And I believe it's got to stop.

Five decades later, while we have made substantial progress, we have much further to go to ensure equal housing opportunity, affirmatively further fair housing, and realize racial equity in our society. The Department of Housing and Urban Development, Secretary Fudge, and of course HUD's Office of Housing Counseling, and that of the Fair Housing and Equal Opportunity Offices, we are all partners internally and externally, and are committed to this goal and vision for our nation.

As many of you know, over the years I've had the privilege of working with HUD as a partner, providing services both on the comprehensive housing counseling program and the fair housing initiatives program. I know like you firsthand that housing counseling providers are HUD certified professional housing counselors, are often the first to identify housing discrimination when it occurs. You know what I'm talking about. It's often discrimination with a smile.

For example, do any of these situations seem familiar to you? Steering a qualified home buyer to housing based on their race, national origin, or other protected classes under the Federal Fair Housing Act. Using source of income, for example Section 8 rental assistance, as a pretext for racial discrimination. I'm sorry, we don't take Section 8 here. Or when a housing provider refuses to provide the same level of information and services to a prospect with limited English proficiency. When a discriminatory appraisal or automated valuation model impacts on realizing the American dream, and the realization of multi-generational wealth for black families, Latino

families, and other groups in our society. Only offering an upper middle income black professional couple an FHA loan product when they easily qualify for a conventional mortgage product.

Well we're very proud of the FHA mortgage program and how it promotes access to sustainable home ownership, we have to ensure that the right product is offered fairly to each and every consumer. Denying a reasonable accommodation in an apartment complex. Or denying a family with children in upper floor apartments. I can tell, I'm sure many of you are nodding to some of these situations which happen all too frequently.

Housing counselors, you truly are on the front line, as DeAndra noted. And the Office of Housing Counseling, the Office of Fair Housing Equal Opportunity, and HUD as a whole, is committed to supporting you to ensure that every apartment of home seeker is treated fairly, free from discrimination, in all of our housing and housing finance marketplace. We are committed to racial equity in housing. And we hope that you will engage with our expert panelists and raise real life fact patterns with them, both on Zoom and the Whova boards that you've learned about.

Now let's get started by talking about our goals and objectives. You've already heard the overarching one, which is to ensure that you have the practical skills and knowledge to be a strong advocate and resource to the consumers you work on a daily basis with. But of course we're also hoping that through the program you'll understand the responsibilities of the Office of Fair Housing and Equal Opportunity, and its role in enforcing fair housing laws and regulations, as well as processing complaints.

But you'll learn about the fair housing implications related to limited English proficiency, LEP individuals, and tools and resources to support services for these clients. That you'll understand the rights for people with disabilities under the Federal Fair Housing Act, and that you'll learn how the Fair Housing Act and HUD's equal access rules apply to the LGBTQ community, and how your agency can support these clients. And of course an area of great focus for many of us today, to learn how to protect the rights of clients who are recovering from a disaster.

For the short term I'm going to turn it back over to Olivia. And then DeAndra and I will come back for a moment.

Olivia Healey: Thanks, David. As we went over this earlier, Whova is the platform that we will continue our conversation with. We had messaged in the chat for anybody who's looking, but this is also a place and time in our presentation for you to see the web app link on the screen. So if you didn't receive that email I mentioned earlier, feel free to use the link that we posted in the chat box or accessing the link here and using the invitation code up on the screen.

As mentioned throughout the event, during a live session, breaks in between the session, leading up till tomorrow and going into the end of next week, we are able to engage with each other and be able to network and continue the conversation past just the webinar sessions. This is our opportunity to get to know each other and really extend that conversation. With that being said, for just one other moment before we kind of kick our way into our first session and listen to

another -- just a send off by Dave and DeAndra. I'm going to bring us back to our Mentimeter question that we had mentioned since some other folks were in on the line when we first started.

But this question that we had was really just to kind of ramp up our interest and touch base on all the different topics that we have coming up in our conference. And so it really looks, which is really exciting, that a lot of people like the fair housing in practice session which is coming up in just a few minutes. But we do have a lot of really other great sessions that are going to occur today and tomorrow. And so just make sure that you engage with that agenda on Whova and on our conference website. And again, we're here to answer any questions and make this as streamlined as possible -- streamlined process for you as possible.

So David and DeAndra, I'm going to invite you back to the camera to say any final words.

DeAndra Cullen: I just want to take a moment to thank each and every one of you for being here with us today. We are very, very pleased to be able to welcome those of you who have been with us for a very long time, as well as those of you who may be new to housing counseling or fair housing for that matter. Your success is really our success. You're all here because of a mutual passion for public housing, for fair housing, for public service. Your passion helps us all to unite. And this energy allows us to achieve our mission and goals.

We need you as much as you need us. And that's why we are so grateful to have you join us here today. Thank you for the opportunity to officially welcome you to this training. Happy learning, everyone.

David Berenbaum: I'd like to echo DeAndra's remarks. And I'm very excited already by what we've seen on Mentimeter and your areas of interest. I think you're going to find this to be a tailored conference. Our goal is to be responsive to you. And I really invite you to use the features for communicating on both Zoom, as well as Whova. They are a very enriching and a wonderful form of communication for all of us. And our staffs are also going to be available on both of the platforms to respond to your questions or suggest approaches, in essence really focus in on best practices of housing counseling and equal housing opportunity, working with FHEO moving forward.

Working together, is it our genuine hope that we as both civil rights as well as housing counseling professionals, can and will make a difference. It's my hope that each of you will work collaboratively with HUD office of housing counseling in all of our programs. But equally work with all of our partner offices, whether it be in the FHA program, with FHEO, or there being multi-family housing, with the offices that serve other constituencies such as the Native American community and so on.

We are here to work collaboratively with you. We want you to work as well with your local FHIPs and FHAPs. And we well we want you to engage directly with us. With that in mind, I invite you to engage with both DeAndra and I in our, quote, corner on Whova. We'll do our best to respond promptly to your thoughts, your questions, your suggestions. But for the time being let's get started. And thanks for joining us.

Olivia Healey: Thanks, David .Thanks, DeAndra. So I'm going to pull my screen back up and we're going to wait just a few moments until it is 12:30, where we will start our first session of the conference past our opening. And we'll get going. So if you need to run and get a quick drink or take a few moments to yourself, we will begin promptly at 12:30. Thank you.

It is my pleasure to invite my colleague, Sid, on to run us through our first session of this conference. So Sid, the floor is all yours.

Sid Alvarado: Thank you so much, Olivia. I'd like to say welcome to all of you. We are so excited to have you join us on today. In this particular session we are going to be talking about Fair Housing in Practice, Responsibilities, Guidance, and Tools. And from the results of the Mentimeter, it looks like this is a much anticipated topic.

As Olivia said, my name is Sid Alvarado. I am with ICF, technical assistance provider. But I am also a fellow housing counselor. And I'm especially excited about this conference and this session because as housing counselors there has been so many questions surrounding fair housing. There has been a desire for knowledge, as well as for many of us wanting to know what our role is when we're working with our clients trying to let them know what their rights, and helping in advocating for our clients. So we are really excited to provide not only the conference, but this session as well. We know that many of your questions that you have are going to definitely be covered and answered in this particular session.

So what is it that we are going to cover in this session. We are going to be talking about what is the purpose of the Federal Fair Housing Act, which we will be referring to as FHA. We are going to be talking about the type of housing that's covered. We're going to talk about who does FHA protect. We're going to move on to prohibited actions and limited exceptions. And then we're going to be clearing the air and providing lots of information on affirmatively furthering fair housing, AFFH, which is a term many of you have heard, but may not have fully understood.

We're also going to be talking about the HUD complaint process, how do we as housing counselors help to advocate and work alongside of our clients. We're going to be talking about fair housing resources. And then there's going to be an opportunity for some questions and answers at the end of the presentation. So this is going to be a power packed one and a half hours of information.

Also don't forget, which we talked about a little bit earlier with the Olivia, is Whova. We do have a board that is specific to this topic. So if you find yourself having some questions after this session is over, don't hesitate to go to Whova on that particular board and ask any of the questions that you have.

Just want you to keep in mind though that as you're asking questions, the questions on Whova we're really going to try to concentrate on the policies, we're going to try to concentrate on the rules. I know some of you may be tempted to ask very specific questions about your clients. You may say, hey, my client AB did this, and this happened, want to know how we can help them out. Those are questions where we might have to provide those answers offline. There's always that caveat where we might need a little bit more additional information in those really specific

situations and circumstances. But we definitely want to invite you to engage, that if you have any questions about policy, you want to know what your role could be, what is it that you can do as a housing counselor, we are definitely here to answer those types of questions.

I'm going to be joined today by Erika Grant. She is the enforcement branch chief in the Office of Fair Housing and Equal Opportunity in HUD Region VIII. We're also going to be joined by Tiffany Johnson, who's the director of policy legislation initiatives in the division, in the Office of Fair Housing and Equal Opportunity. So without further delay, we are going to kick this session off so that you can get the knowledge that you came to get by starting off with purpose of the Federal Fair Housing Act. Erika?

Erika Grant: Thank you, Sid. Good morning, everyone. Again my name is Erika Grant. It's my absolute pleasure to be joining you virtually from Denver, Colorado today. And it's truly an honor to be able to help provide you with meaningful fair housing information as part of your training conference. As housing professionals and specially trained housing counselors, I just want to reemphasize that HUD appreciates all the important work you do, and we are your partners. HUD FHEO honors your work by participating and empowering you with specialized knowledge that will help you inform and guide those who you serve that may be facing fair housing issues.

So these next couple of days are about you. And a few of you, just a few, polled as being interested in fair housing in practice. So whether you're attending today to increase your fair housing knowledge or just getting a refresher, thank you again for being here. So let's get started, the purpose.

The purpose of the Fair Housing Act. This really is a wonderful piece of law that you can study for years even and still not completely grasp all the nuances and purposes of it. Although the Act as a whole does so much more, generally speaking the primary purpose of the Fair Housing Act is to protect buyers and renters who belong to specific protected classes from discrimination in housing because of their membership in those protected classes.

The Fair Housing Act declares that it is the policy of the United States to provide within constitutional limitations for fair housing throughout the United States. Now American poet and civil rights activist Maya Angelou once said, you can't really know where you are going until you know where you have been. And I really believe that. So to adequately get acquainted with the Fair Housing Act means understanding a little bit about its very complicated history and its place in today's American society. So it's good to know a little bit about the history and the intent behind the law.

What we call the Fair Housing Act, the legal name you will also hear it sometimes being called is the Title VIII of the Civil Rights Act of 1968. But more commonly we call it the Fair Housing Act. You'll here me call it the Act today. But I want you to know and put this in context that the Act was the third major civil rights law passed in the 1960s. It followed the Civil Rights Act of 1964, which outlawed discrimination in Jim Crow segregation in employment, schools, and public places. It also followed the Voting Rights Act of 1965, which outlawed racial discrimination in voting.

So the '60s, if you can remember, was a remarkable decade for civil rights legislation in the United States. And to sort of improve on the civil rights achievements that we saw in '64 and '65, President Lyndon Johnson in his 1966 state of the union address called for additional legislation to extend protections for civil rights workers, to end discrimination in jury selection, and prohibit racial discrimination in the sale or rental of housing.

Although policymakers had overlooked housing in the past, Johnson and his congressional allies began prioritizing midway through his term this issue of fair housing. By 1966 however, successive summers of civil unrest, violence, and even property destruction in our country had escalated tensions in American cities and starkly divided congress on civil rights, especially on legislative efforts to make America's housing fair and equitable.

As lawmakers debated on Capitol Hill, Dr. Martin Luther King, Jr., and the Southern Christian Leadership Conference, or SCLC, launched a grassroots campaign to put more pressure on congress and desegregate northern cities, starting in Chicago, Illinois. Over the next two years though, Johnson's new housing measure, the Fair Housing Act, it traveled what he called a long torturous and difficult road. Johnson dismissed critics of fair housing, who claimed that the fair housing initiative was beyond the constitutional powers of congress. He cited a century of historical precedents, beginning with the Civil Rights Act of 1866, which declared that all US citizens had the right to inherit, purchase, lease, sell, hold, and convey real and personal property. But even still, the Act was subject to contentious debate.

Senator Edward Brook III of Massachusetts, which he was the first African American ever to be elected to the senate by popular vote, he spoke personally on the senate floor about his return from World War II, and the psychological impact of serving one's country, and then coming back to the United States and not being able to obtain a home of his choice for his family because of his race. Opposition to the Fair Housing Act was an issue in many political campaigns at that time. And for years it failed to gain congressional support.

But it was Dr. King's assassination that radically altered the fate of the Fair Housing Act. Dr. King's name had become associated with the Fair Housing Act. And President Lyndon Johnson used this national tragedy of his assassination to urge for the bill's speedy congressional approval. After its passage on April 4, 1968, one of the Act's co-sponsors who you heard David mention, then Senator Walter Mondale from the state of Minnesota, he expressed that the purpose of the law was to achieve truly integrated and balanced living patterns. Congress intended that HUD do more than simply not discriminate in its own practices. But HUD was supposed to be using its funding to assist in ending discrimination and segregation, and to ultimately increase housing opportunity.

So with the passage of the Fair Housing Act of 1968, it's important for you to remember that the federal government for the first time recognized its role in creating segregated living patterns that had negative impacts on health, education, and the economy. The government also recognized its responsibility to undo the effects of policies, practices, that resulted in a lack of equity. The Fair Housing Act has the mandate of both preventing new discrimination and reversing the damage done by prior discrimination.

So yes, over the 50 years that it's been in existence, the Fair Housing Act hasn't fixed the pervasive problem of housing segregation in America. But its purpose and its necessity remains clear. So for more historical perspective, there's plenty of great documentaries streaming online, and there's lots of great historical information available on HUD's website. I encourage you sometimes to just take a look at that, and keep the Fair Housing Act and its history in context.

So what type of housing is covered? A common misconception is that HUD is only really involved in public housing, ergo the Fair Housing Act only applies to public housing. Well actually the Fair Housing Act covers most housing with very limited exemptions. And we'll review those later. The Act generally applies to private market rate housing and to federal funded housing. So let's pause here. And I'm going to turn it back over to Sid for another Mentimeter. And let's just test out your current knowledge and where you are before we get into who the Act protects.

Sid Alvarado: Thank you, Erika. Thank you so much, Erika. So just as Erika said, we want to ask you a question. And our first question here is, which is a federally protected class? Okay. So you have the Mentimeter code that you can see there. I would love for you to chime in. Which is a federally protected class? We gave you some options. And it looks like some of you are coming in at -- most are coming in with the answer of all of the above. It looks like there is some who are saying sex or national origin. It looks like color is now on the wheel.

Okay. It looks like mostly all of the above is the winner. All of the above looks like it's the winner. We'll give you another few seconds to chime in. Okay. It looks like all of the above is for the win. All right.

So our next question, which are two examples of exemptions to the Fair Housing Act? So think about that. Which are two examples of exemptions to the Fair Housing Act? Our options here are housing for younger persons, homes sold by a broker, housing operated by private clubs that limit occupancy to members. And then housing for older persons. Looks like we have one on the board for homes sold by a broker. Looks like we have one on the board for housing for younger persons. Then we have looks like second is housing for older persons. And then it looks like most people are chiming in at housing operated by private clubs that limit occupancy to members.

Yes. You can only choose one. So once again the code, you can either go use your phone, or use a browser, go to menti.com. You're going to use the code that you see above there. And that is an opportunity for you to chime in. We've also put the link in the chat box for you. Make it easy. So it looks like housing operated by private clubs is coming in for the win. And then second to that is housing for older persons. And the correct answer is what most people were coming in at.

What are you doing to affirmatively further fair housing? So this right here, we're going to leave it open for you. We want to know what is it that you are doing with your agency to affirmatively further fair housing. This is an opened question where you can think about, hmm, what is it that we're doing. We're doing this activity, or we are involved here, we're plugging in here. But we'd love to hear what is it that you're already doing. And we're going to have an opportunity to talk

about AFFH in just a moment. But we just wanted to get an idea of what is it that you're already doing.

So it looks like we have some great answers. Looks like we have some that are saying they're educating clients, hosting fair housing webinars for housing counselors, ensuring compliance, providing education, attending conferences, outreach and education. So it looks like there's definitely a theme here with education and outreach. And outreach can be specific. We have some people here saying that you do your outreach via Facebook posts. Ensuring compliance, that's another great answer there. But we'd love to hear from you. We can continue to keep Menti open. And you can have an opportunity to chime in if you haven't done that already.

Now I'm going to hand it back over to Erika, who is now going to talk about who does the FHA protect. Erika?

Erika Grant: Thanks, Sid. And thank you all for participating in that survey. Very interesting to see your answers. So who does the fair housing protect? This is a central question that will probably be at the core of how you advise or guide your clients. Who is protected under the Fair Housing Act? There are seven protected classes under the Fair Housing Act. They are race, sex, national origin, color, religion, familial status, and disability. And I've highlighted that under the Act, HUD recognizes that sex includes gender identity and sexual orientation.

I've also -- there's two kind of notations after familial status and disability because those are the most recently added protected classes. And it seems recent to me, but these were added with the Fair Housing Amendment Act of 1988, those two. Some additional things I want to highlight is these are federally protected classes. So you should be always aware if there are additional federal protected classes -- I'm sorry, if there are additional protected classes in your state. In the region where I work for example, Colorado state law includes marital status as a protected class. In South Dakota in my region, ancestry and creed are included as protected classes on a state level. But it's just important to point out that these are the seven that are protected under the Fair Housing Act.

Another thing I want to highlight that seems to cause some confusion by the average person is what familial status is. So the common kind of sense of familial status is whether or not I'm married and have children, or something to do with my marital status, maybe I'm single. But in reality what we mean by familial status under the Act, this covers families with children under the age of 18, it covers pregnant persons, and it covers any person in the process of securing legal custody of a minor child, including adoptive or foster parents. It covers people who have written permission of a minor child's parent or legal guardian to have that child live with them. So just understand that that's what the Act is referring to when it says familial status is a protected class. It is not intending to address marital status.

So let's focus a bit on disability as a protected class. Because I know you will be having some additional instruction tomorrow about disability rights under the Act. But I want to highlight that disability is defined very specifically under the Act. In the context of the Act, disability is a legal term, rather than a medical one. And because it has a legal definition, the Act's definition of

disability may be different from how disability is defined under some other laws such as the Social Security Administration and how they define disability to afford people related benefits.

The Act defines a person with a disability to include individuals with a physical or a mental impairment that substantially limits one or more major life activities. And what are major life activities? Commonly these are things that you do every day that you have to do every day to participate in life, seeing, hearing, walking, breathing, performing manual tasks, speaking, working, going to school, caring for yourself. These are major life activities.

The definition of disability under the Act also includes individuals who are regarded as having such an impairment and have a record of having such an impairment. So it's very important. We do get a lot of cases in HUD where individuals believe that they qualify as a person with disabilities. And they may have. But under the Act there's a very specific definition that you must meet.

The Americans with Disabilities Act, as you know, is civil rights law that prohibits discrimination against individuals with disabilities in all public and private places that are open to the general public. The ADA can apply for example to rental offices that are open to the public. Section 504 of the Rehabilitation Act of 1973, which we just call Section 504 for short, this protects rights of persons with disabilities in HUD funded programs and activities. So both of these bodies of law have -- may have a slightly different definition of disability. But HUD enforces these laws as well. So we may apply those definitions as well.

So let's jump into prohibited actions and the limited exemptions -- or exceptions. This is not an exhaustive list. Let me just make that clear. This list on this slide is conduct that you may commonly hear about. It's definitely conduct that we commonly hear about in HUD. And these are among some of the actions prohibited by the Act. So keep in mind that a person could be experiencing one of these or multiple prohibited actions at the same time. One prohibited action could grow out of something that a housing provider does.

For example, a housing provider could falsely claim a particular housing is unavailable, and then steer the housing seeker to less desirable housing because of their disability. So there's -- these are just examples, but be aware that these are some of the common ones. Refusing to rent or sell is prohibited under the Act. Differential treatment because of protected class is prohibited under the Act. Discriminatory statements, written or even spoken orally, are prohibited under the Act, when they infer a preference or some discrimination based on protected class.

Steering, false representing availability of housing, retaliating against someone after they've engaged in protected activity is prohibited action, harassment, and we'll talk about all of these a little bit more. Not allowing a reasonable accommodation or a reasonable modification to a person with disabilities who requires such an accommodation or modification to have equal access to to equally enjoy and use property. Failing to design and construct in a manner that is accessible to individuals with mobility impairments. Discrimination in real estate related transactions is also another one. Residential real estate related transactions, these are prohibited actions that come in various forms. So we'll talk a little bit about that.

So let's zero in on some real world examples. Failure to rent or sell or to negotiate based on a protected class. Here's just some examples. Okay. This is not all inclusive, but just some examples, real world. The landlord falsely claims that an apartment is no longer available as soon as they find out for example that the housing seeker or applicant is African American. The landlord refuses to set up an appointment to view an available apartment or real estate agent won't show an available property because they are made aware that the applicant is a person with disabilities. The landlord uses requirements to deny a person's rental application, but doesn't use the same requirements for others outside the protected class. For example, setting higher income requirements for people of color, and then not having those same income requirements for people who are white.

And so in each of these slides, I want to point to your attention that I have referenced the subsection of the Act where this prohibited conduct can be referenced. And you can read about it. So here, failure to rent or sell based on a protected class, it can be under 804(a). It also could fall under subsection 804(f) of the Act for people with disabilities.

Different treatment based on a protected class is something that we see quite often. And a lot of times complainants or aggrieved persons, they have this feeling that they are being treated differently. They might not always have direct evidence of a different treatment or like a compared person that they can point to. But oftentimes you will hear people say they believe they're being treated differently because of their membership in a protected class.

Some common examples come with landlords refusing to repair items in the apartment of a person with disabilities. But for other individuals who are not disabled or who do not have disabilities, the repairs are made promptly. A landlord requires an extra deposit for families with children, rationalizing that children will cause more damage and therefore a higher deposit would be needed. That's different treatment. A landlord enforces rules unevenly based on race. A common unevenly enforced rule we see is noise. Noise complaints tend to provide some pretext or writing up lots of notices of lease violations, which ultimately get people evicted. But then those same rules for noise are not applied to other tenants outside the protected class who may be engaged in a similar or same activity.

So it's important to remember that what sets the different treatment prohibition under the Act apart from regular landlord tenant issues, is that there is a belief on the part of the aggrieved person, or there is some evidence that having providers -- that the housing provider's conduct is because of protected class. So these are not just normal landlord tenant issues. This is discrimination what we're talking about.

Discriminatory statements and advertisements based on protected class. These can be, like I said, verbal or written, an advertisement. They can be spoken by housing providers. And they can also be written down in emails or policies, and most commonly in advertisements. What we have seen in HUD, because we do review things like how the property is advertised, we see advertisements like adults only, which on the face you might think that that's pretty acceptable to express such a preference. But in reality this may present a discriminatory preference for families that do not have children. So it would prohibit or it would stop families with children from applying to that particular housing project.

You might see something like able-bodied, which tends to state a preference for people who do not have a disability. English only is something that we've seen at HUD, which obviously if you're not from America, or you have a different national origin, and you're an immigrant, or you've just recently relocated to the United States, and English only would prohibit you based on your national origin.

Not suitable for families with small children. We see that a lot. There are a lot of housing developments out there who want to keep a very quiet environment, usually for older persons, but they don't qualify for the housing for older persons exemption which we'll talk about later. But they want to keep a certain kind of atmosphere in the housing and they don't want small children there. Well that's prohibited. That's a prohibitive statement, if that's advertised.

In a written policy you might see something like no animals allowed, no exceptions, which indicates somewhat of a preference to not make reasonable accommodations for individuals with disability related needs. In an email, believe it or not, you'd be surprised what some housing providers will communicate in writing, especially if there is some dispute between the parties and there's some bad communication going back and forth.

In an email we've seen correspondence to tenants where the housing manager has attached a lease termination notice, and added some verbiage to the email for good measure. We have determined that you're not a good fit for our community. And you know, we get to investigating that, and we find that the manager is aware of this person's protected class status. And writing something like you're not a good fit for the community can be assessed as a discriminatory statement.

Steering based on protected class. I want to just provide a personal antidote [sic] here because you may think that this doesn't happen in modern society that people aren't steered to less desirable housing options based on their protected class. But this still happens. There are plenty of examples of housing providers and managers who place families with children on the ground floors of apartments because they don't want those families to disturb other tenants. We've gone on onsite investigations and where everything looked pretty diverse in the complex on paper. We get to the place and we see that all the African American families have been placed in the buildings furthest from the rental visitation office. So they've been steered to parts of the complex based on their protected class.

Realtors suggesting that a protected prospective buyer might feel more comfortable. This is a personal antidote [sic] of mine. When I was buying my first home in Minnesota, my husband and I were working with a real estate agent. And this person kept telling us that we would be -- she literally used the words, we might be more comfortable in North Minneapolis. And I don't know how many of you are familiar with the Twin Cities. But North Minneapolis is the place where you would find the majority of black families residing in that area of the city. And it had a larger black population there. We knew that. But we wanted to live in South Minneapolis.

We were looking to buy in a area where we could send our son to a particular school. And we just were not looking to live there. And no matter what we said about our desired preference, this

agent kept pushing us, coming up with reasons why North Minneapolis would just be a good place for us to live. She even offered us some incentives in our loan process. And steering can come in that form and fashion, offering you incentives to go somewhere else. Well I could give you cheaper rent if you go this place. Or I can give you some points off your mortgage if you move here.

And at that time I felt like something was wrong, but I didn't know what exactly. This was before my fair housing days. And I think that's what you'll see, a lot of people feeling like something was wrong in a transaction. And they believe something is up, but they can't put their finger on it for sure. So it's your duty to know what these prohibited actions are so that you can maybe issue spot with them, and help them at least encourage them to contact HUD or a local fair housing agency to file a complaint that can be assessed and investigated. And we'll talk about the complaint process soon. But that's steering. It still happens.

False representation of availability. This is similar to -- somewhat similar to denying rental. But what's different about this is you have someone who's telling a renter that an apartment or a particular housing is not available for rent or purchase, when in fact it is. And we've seen people call -- we do have fair -- I'm sure you all are familiar with fair housing testers who will call up a property and ask about availability. And they'll present themselves as being a member of a protected class, either maybe they have an accent over the phone, or they talk about having children.

And suddenly the manager communicates that the housing is not available. But you go online or you look in the paper or whatever, and it's still being advertised as available. So the Fair Housing Act makes it illegal to represent that because of someone's race, color, religion, sex, disability, familial status, or national origin, that a dwelling is not available either for inspection, or sale, or for rental.

Retaliation and harassment based on protected class. This is something that we see a lot. Some common examples are a landlord sends a non-renewal or an eviction notice after the tenant has filed a complaint with HUD, which is just kind of blatant retaliation. If they have no other reason and it's just so close in time and context, that it's obvious or at least circumstantially the evidence is there that this was retaliation. The person when they file a complaint with HUD, or even when they allege discrimination based on their protected class, they are engaged in protected activity. When a person requests a reasonable accommodation for their disability or a reasonable modification, they're engaged in protected activity under the Act.

And when the landlord decides to do something negative to them, that reduces their access or impacts their housing negatively, this can be assessed as retaliation. And it is prohibited under Section 818 of the Act. We also see harassment a lot. This is something that you would -- it breaks my heart every time I see harassment in housing because it is often so egregious that it prevents a person from enjoying their housing. It's really a horrible situation and it could be traumatic for the person who experiences it. And as housing counselors, you'll need to be able to help that person identify what happened that was prohibited under the Act, often fighting through tears and a lot of emotion.

There's two forms of harassment under the Act that I want to point out for your information and awareness. Harassment under the Act can be hostile environment harassment or it could be what we call quid pro quo harassment. Okay. Hostile environment harassment, that occurs when a housing provider subjects a person to severe and pervasive unwelcome conduct that interferes with the person's access to or enjoyment of housing. They create an environment that is hostile. This can be in the form of -- in the neighbor on neighbor harassment context, some tenant may go to the housing provider and complain that another tenant is discriminating against them because of their race. And it's just causing lots of problems. Please help us, please do something about it. And then the housing provider fails to take action to stop or address the hostile harassment that's occurring.

It could be a situation where the landlord has decided to just constantly issue notice violations, notice violations, almost on a regular consistent basis. And if you could just think of the toll that that would take on a person to constantly be in threat and under duress of losing their housing, that could be a form of hostile environment harassment.

Quid pro quo harassment, and that translates into something for something, something for something else, I believe, but this occurs when a housing provider requires a person to submit to an unwelcome request to engage in sexual conduct as a condition for obtaining or maintaining housing or housing related services. And this happens, folks, especially to vulnerable populations. They may not have large contacts in the community. Or they may be suffering under poverty. And they may be vulnerable. And they need housing. And someone takes advantage of that and says, hey, you know, I'll rent you an apartment, but you have to have sex with me. That's basically how that comes out, and it's egregious, and that is a form of harassment that is prohibited under the Act, Section 818.

Taking us back to disability related protections just for another hot second, again I know you will covering this in your session tomorrow, but it's important that you know that there are two things that often come up, two common things that come up in housing for persons with disabilities. And that is their need to have an accommodation or a modification in order to have an equal right to enjoy or use the housing. I won't go into great detail here, but for the purpose of this discussion I just want you to be aware of the differences between a reasonable accommodation and a reasonable modification, and that refusal by a housing provider to provide either of these may, not always, but it may be a prohibited action under the Act.

When you think of reasonable accommodations, you want to be thinking about someone asking for an exception or a change to a rule, or policy, or procedure, okay? And I know that often when we think about fair housing, the first thing you think is we're going to treat everyone equal. This is one area of the law that emphasizes that you may have to give some special treatment. And I hate to say special treatment because that always seems to have a negative connotation for some reason, but you may have to treat someone with some special changes or exceptions to rules because they need that for their disability.

An example, a very common example that I'm sure you guys have heard about all the time is requesting to be allowed to have an assistance animal in a no pets housing. So this is a request for a reasonable accommodation because you're asking for an exception to the rule that normally

says no animals are allowed, that will allow you to have an assistance animal, which by the way is not considered a pet. And you'll learn more about that I'm sure tomorrow.

A reasonable modification on the other hand, when you think about this I want you to think more about changes to the structural aspects of the housing or even of in the unit or in common areas of the building that are necessary for someone to have full enjoyment of the premises. A common reasonable modification request may be approving the installment of grab bars in the shower.

Design and construction. So in 1988 when we saw the amendment of the Act to add familial status and disability as protected classes, congress also added design and construction requirements to the fair housing law. So what this did was require under the Act that new multi-family housing be designed and constructed with certain accessibility features. So when we say new multi-family housing, what we mean is housing built after March 13, 1991. And I don't know what's going on in your neck of the country, but here in Colorado we're seeing a lot of development, a lot of new affordable housing projects popping up. And these housing projects, because they were built after March 1991, they would be considered new multi-family housing.

And when we talk about multi-family housing in this context, we mean that any project that has four or more units. And this includes condominiums, apartments, or even single story townhouses. Under design and construction, there are basically seven construction requirements that I am also sure you will get into tomorrow when you talk about disability rights. But mainly you just want to know that it requires these units to have accessible entrance, to have accessible routes, that the public and common use areas are accessible, that doors within the units are usable doors, and that there are accessible routes into and through the unit. That light switches, and electrical outlets, and different environmental controls are accessible.

So if you think if you are a person who uses a wheelchair because of your disability, to have an electrical -- or a light switch that's too far up on the wall where you can't reach it, that would make that an accessible feature in your unit. Bathrooms have to have reinforced walls so that bars, grab bars and such can be installed at least if they're not already. And kitchens and bathrooms have to be usable, accessible. In buildings without elevators, like the first floor units may not need to comply, but in buildings with elevators every unit has to be in compliance with design and construction.

And you can find the design and construction requirements of the Act under subsection 804(f)(3)(c). And I refer to accessibility first website all the time because they have a very comprehensive description of what accessibility standards are. And it's just not something that you want to rely on your memory for. It's good to refer to your supplements, the Fair Housing Act, and other places where you can find these requirements. Congress added the design and construction requirements of the Act to provide anyone with a mobility related disability a better chance of finding housing that works more for them than it does against them. And complaints involving design and construction issues, just so you know, they are usually naming the owner, but also the builder, and also the developer as liable respondents.

Discrimination in residential real estate transactions. You know, please look over Section 805 of the Act. The term redlining is something that may have -- if you work in housing, you've heard the term redlining. If you haven't, there's some great resources out there to explain the history of redlining. Because it does have some historical significance in our country. It comes from this federal policy of developing maps in every metropolitan area in the country. And these maps were color coded by first Home Owners' Loan Corp and the Federal Housing Administration, and adopted by like the VA. And the codes were designed to indicate where it would be safe to insure mortgages.

So what ended up happening is places where African Americans live, or anywhere where African Americans live nearby, there would be a colored red line to indicate to appraisers that these neighborhoods were too risky to insure mortgages. And redlining on a racial basis has been held by the courts to be an illegal practice under the Act, it's unlawful, and especially unlawful under the Fair Housing Act when it's done on the basis of a protected class.

I put appraisers on here. Home appraisers are bound by the Fair Housing Act to not discriminate based on protected class. The issue of racially discriminatory home appraisals has been garnering a lot of national attention. If you're paying attention, you have heard about racially discriminatory appraisals. The country is examining, and HUD included, the reasons behind home ownership disparities and wealth disparities in this country. And appraisal of property plays a huge role in that.

If you're someone who is a minority, a person of color, African American, or any race outside of white, and you get your home appraised, and it comes in with a lower appraisal value, then immediately your ability to gain wealth from the property that you own is impacted negatively. Similarly if you are offered a higher appraisal than what the property is worth, that ends up putting you in a very dire state of being underwater with owing more on a property that you purchased than it's really worth, appraisals can affect that as well. So home appraisals is an issue that's a hot topic right now, and I encourage you to just Google it and find out what's going on, all the way from New York, all the way over the west coast. Across the nation appraisals are becoming an issue.

All right. So finally we've got to the point where we can discuss limited exemptions or exceptions to the Act. And I emphasize that they are limited because they're not meant to provide these like regular scapegoats for discriminating, okay. It's very -- the exemptions are very thought out and meaningful, and they have policy behind them, and it's just not something that automatically applies either. So the Ms. Murphy exemption. This may be something that you've heard often. Ms. Murphy is kind of a fictional character that you want to have in your mind, a fictional person who's renting out an extra room in her house to make ends meet. So she's renting out rooms in her personal residence, or she has a very small fourplex and she lives in one of those units. And so the law, the Fair Housing Act says that she may be exempt from fair housing laws.

Another exemption is the single family exemption. And what that basically is that single family housing that is sold or rented without the use of a broker or real estate professional, if that single

family house, the private individual who owns it, doesn't own any more than three such single family houses at one time, they may be exempt from the Act.

Some other exemptions are religious organizations and private clubs because they can give a preference to their members. Think about fraternity houses where you might find all male residents. Perhaps if they turned away a female student who wanted to live in their housing, they could be exempt from the Act because they're a private club giving a preference to their members. So long as they don't discriminate in other ways, they may be exempt.

And I know that you saw in the Mentimeter survey that maybe housing for older persons wouldn't be an exemption, but it actually is. Housing for older persons, or HOPA, is another exemption from the -- what we say is prohibited conduct against families with children. So if you are -- if HUD has determined that you are specifically designed for and occupied by elder persons under federal, state, and local government program, or if you're 100 percent occupied by people 62 or older, or if you house at least one person 55 or older, and at least 80 percent of the occupied units, and you adhere to policy that [inaudible] your intent to be housing for persons 55 or older, then you may qualify for that exemption.

So as you can see, there are several things that must be met before the exemption can apply. And so it's important that you understand that in all instances these exemptions are usually affirmative defenses to complaints of discrimination. Or they will bar a complaint from moving forward. But it has to be proven. It's not just something that you can say, and then HUD says, all right, then we trust you. It's something that you have to prove and often gets investigated. Most home seekers will not know if a property is exempt. And so this can be really tricky for them. So it's best, 100 percent, to not do a lot of guesswork, but at least to contact legal counsel, or definitely contact HUD FHEO for some technical assistance if you find yourself questioning whether or not a property or a respondent is exempt under the Act.

I also want to point out that with allegations made under 804(c), discriminatory statements, and under 818, retaliation and harassment, the exemption may not apply. So HUD does not say, okay, if you're Ms. Murphy, you can go ahead and sexually harass people. Or all right, if you're a private club, you can go ahead and put in your advertisement no black people allowed. So if you make a statement or you harass, even if an exemption might ordinarily apply, then you may be held liable under the Act.

So at this point I have concluded a lot of information for you. I know it was a lot. But you have some wonderful supplements in your training materials that I hope you will refer to. And I look forward to answering your questions. But now I'm going to turn it over to Tiffany Johnson, director of policy legislative initiatives division, in the Office of Fair Housing and Equal Opportunity. Tiffany?

Tiffany Johnson: Hi, everyone. I just want to start out by saying thank you immensely to Erika Grant for laying the framework and the foundation of sort of our Fair Housing in Practice session. I think that she's provided a lot of helpful tips and really great perspective on the work. I am going to dive into a topic that folks are familiar with the term, but may not be familiar with what it looks like in practice. So again, my name is Tiffany Johnson. I'm the director of the

policy and legislative initiatives division here at headquarters FHEO. And basically we do policy work, we work on sort of the legislative agenda around fair housing and civil rights laws, but we also do an important -- the important work of working on affirmatively furthering fair housing.

So what is this? In the 1968 Fair Housing Act, there is a requirement that HUD and its funding recipients affirmatively further the policies and purposes of the Act. This obligation is also known as affirmatively furthering fair housing, or AFFH. Don't say any of that too quickly because it is a tongue twister. But Section 808(e)(5) of the Fair Housing Act requires that the secretary of HUD must administer the department's Housing and Urban Development programs in a manner to affirmatively furthering fair housing. So I think that oftentimes we think about these terms and hear this, and we really have to dig into like why is this a necessity, and what obligations does this create for each of us. So let's dive in.

The need for AFFH is one that is obviously steeped in what Erika was talking about before. It is one of history. I know that most of you are familiar with the book or might be familiar with the book, *Color of Law*, by Richard Rothstein. In that book, and subsequent videos, and seminars, and I think Kate might drop something in the chat, there is a discussion around the government's role in redlining. And basically we know that we played a part in creating sort of segregated areas and pockets across the country.

So examples of this are included in the book. And you all have access to other resources that talk about the FHA's use of redlining in the 1930s to deny home ownership opportunities for black Americans. In this process we also know that the VA restricted housing loan benefits for black veterans. Other examples include the mass segregation that's around public housing, where we know that oftentimes housing was developed in areas that were largely urban, that were poor, that were communities of color, and sought to segregate black or brown folks, from white folks living in particular areas or communities. Other forms of state sponsored segregation such as -- include but aren't limited to restrictive covenants and discriminatory zoning policies. So all of these things are the history of why AFFH is important and became a necessity.

So what is the obligation to AFFH? I think if there's no other slide that you all take from our time together, this is an important one. It administering programs and activities related to housing and community development, the federal government, HUD, and its recipients must determine who lacks access to the opportunity and address inequality among those protected class groups. We must promote integration and reduce segregation. We must transform racially or ethnically concentrated areas of poverty into areas of opportunity.

The AFFH mandate also applies to executive agencies, departments of federal government, and to the administration of any program or activity relating to housing and urban development. So I know that this seems maybe a bit abstract. But it is very important that HUD and all of our funding recipients, particularly grantees, really take a proactive stance in making sure that we are not perpetuating segregation, that we are promoting integration, that we are actively and proactively trying to address inequality, especially as it relates to poverty and the breakdown by demographics.

When folks ask me what I do, and I say it's not hyperbole when I explain that my goal is to, and the thing that I do every day, is work to actively end segregation. And that's what the mandate of the AFFH really is all about.

So there are three slides that are going to go over definitions when we think of affirmatively furthering fair housing. So affirmatively furthering fair housing means to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from [inaudible] characteristics. Okay. That sounds great, but what does it really, really mean?

So a further definition. Specifically AFFH means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively furthering fair housing extends to all program participant's activities and programs relating to housing and urban development.

And just further, meaning actions means to significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity.

So what does that mean for housing counselors? This is important for you all because in your housing counseling NOFO, recipients must affirmatively further fair housing in their use of grant funds. And this is outlined in Section 808(e)(5) of the Fair Housing Act. Each recipient, consistent with HUD's AFFH obligations at 24 CFR section 5.151 and 5.152 are required to submit a certification that will affirmatively furthering fair housing. Applicants must provide a brief description of any meaningful action the applicant will take that is consistent with the obligation to AFFH.

Currently we are under an interim final rule which reestablishes these certification requirements. So it is very important that at minimum we are providing those certifications. So what does that actually look like in practice for you all? So examples of housing counseling activities that are consistent with the obligation to AFFH as outlined in the housing counseling NOFO are as follows. Training staff on fair housing issues, including promoting housing that is affordable, safe, decent, free of unlawful discrimination, and accessible as required under the fair housing and civil rights laws.

Taking reasonable steps to ensure that persons with limited English proficiency, or LEP, have meaningful access to programs and activities. Include emergency preparedness and/or disaster recovery activities. Additionally, maintaining a database of accessible housing opportunities and providing a database for use by persons with disabilities. Providing access to programs and activities to persons with disabilities, including ensuring effective communication with persons with disabilities and providing reasonable accommodations for persons with disabilities when requested.

Additional examples include providing counseling or information on discriminatory housing mortgage practices, and the rights and remedies available. Providing mobility counseling to help persons access affordable housing by identifying housing opportunities, and connecting them with landlords, and assisting them with housing applications. Other examples that would be consistent with the obligation to AFFH include participating in the consolidated plan process.

And as you all know, or might not know, in our community planning and development organization within HUD, there are lots of grant funds that are administered to local communities and states, whether it's home funds or CDBG funds, or [inaudible] funds, that require consolidated planning. And in this process there are requirements that there is community engagement. So it's very important as housing counseling agencies that you apprise yourself or avail yourself to the opportunities presented there, to bring up real issues around housing disparities and housing inequality within the community, so that they can be addressed both in the plan, because it creates the obligations for that community or jurisdiction to provide real world application and goals around those ideas.

And there's the consolidated planning process, both for CPD funded entities, but also on the public housing side. So there is consolidated planning for PHAs or public housing authorities. We also ask that you distribute outreach materials. They again remain critically important in making sure that people understand and are apprised of their rights under the Fair Housing Act.

And we didn't want to leave you without some information provided around our relevant resources for AFFH. So obviously we have an AFFH web page. I think that we've also left that in the chat, so feel free to reach out and check that out. We have the housing counseling NOFO guidance, which outlines your obligations around AFFH there. On our web page we specifically have a video all about the interim final rule and the requirements there. Again it delves a lot into the history of AFFH, and the obligations, and the reasons why we are here, and why this obligation is so important.

In addition there is also interim final rule questions and answers that you might find relevant to your work, as well as a link to the executive order which outlines the importance of advancing racial equity and supporting underserved communities through the federal government. So I hope that you found this interesting and helpful, and gives you a brief synopsis of the importance of AFFH. I am going to turn it back over to my wonderful colleague, Erika Grant. Thank you.

Erika Grant: Thank you, Tiffany. Thank you very much. So I love that I saw in the chat when I was talking about my personal experience with feeling like I was being steered, someone quickly offered up, hey, did you know that you could file a complaint if that happened in the last year. I love that. Because that's really what happens to us as housing professionals. Once we get the keys to the bus, we want to share that information with people, and we're able to help people assert their rights under fair housing law. So I just think that's great. And thank you to the person who recommended that.

So let's talk about the HUD complaint process. Because once you do have the keys to all this information, knowing what's prohibited, what housing is covered, who's protected, then how do you actually put that key in the ignition and go somewhere with it. In a nutshell, HUD's normal

complaint process involves an intake process, the formal complaint filing process, an open and active investigation process, and then that may result in conciliation or a determination being issued by the department to help resolve the complaint.

So let's talk briefly about the intake and filing process. Complaint intake for HUD begins as soon as the department receives information regarding an alleged discriminatory housing practice. These are usually referred to us inquiries when they first come to HUD. An inquiry is filed as a complaint after an intake analyst determines that sufficient information has been obtained to establish that the aggrieved person's allegations are what we call jurisdictional or covered under the Act.

The Fair Housing Act sets forth the boundaries of the department's jurisdiction to act on housing related complaints of discrimination. I mentioned before that there may be some landlord tenant issues happening that HUD doesn't have jurisdiction over because they're not predicated or involving protected class status. So part of the process of evaluating whether or not a fair housing complaint is jurisdictional is reviewing the information that an individual provides during that intake process, an intake analyst will look at whether or not the elements of jurisdiction are present.

And those elements of jurisdiction are, there are four of them, standing, timeliness, respondent jurisdiction and jurisdiction over the dwelling, and subject matter jurisdiction. Really quick I want you to know that standing is basically does this person have a right as an aggrieved person, is this person an aggrieved person who claims to have been injured by or is about to be injured by a discriminatory housing practice. And usually what you want to look at is whether or not the person is a member of a protected class. That person who is aggrieved will have standing.

When we talk about timeliness, the Act requires that an aggrieved person has to file a complaint under Title VIII or the Fair Housing Act within one year of the date of the most recent occurrence of the alleged discriminatory housing practice. So one year is kind of the timeliness that you need. And that alleged discriminatory practice can be continuing. It can be ongoing. It doesn't have to have stopped. But it must have occurred at least within the last year. And be mindful that some state laws may have shorter time frames for you to file complaints under state law. But under federal fair housing law, one year is the time frame. And also know that one year includes all legal holidays and weekends. And so these are calendar dates and not work days.

When we talk about jurisdiction over the respondent and the dwelling, we're simply making sure that the housing provider is a housing provider, number one, or someone in the business of providing housing, and the housing provider nor the dwelling are exempt under some of the limited exemptions that we have. More often than not, at the intake phase of a complaint, we're going to be able to establish at least some preliminary jurisdiction over the respondent and the property. Because again we don't really get into knowing whether or not the property or the respondents are exempt until we do a little bit more inquiry, or digging, investigating, and finding out if they're exempt.

And lastly subject matter jurisdiction basically says are the allegations that are being described by the aggrieved person or organization, do they describe unlawful discrimination that would

violate Sections 804, 805, 806, or 818 of the Act. So as a federal agency I also want to make clear that HUD is required to make sure individuals can equally access and participate in the complaint process. So if you are working with someone who requires some kind of reasonable accommodation, to participate in the intake process, to communicate with HUD, then those individuals may request reasonable accommodation from the agency. And we are responsible for granting those to make sure they have access to participate. But the jurisdictional standards remain constant even if a reasonable accommodation is granted to allow you to participate in the complaint process.

So once we make it past the intake stage, then we are at the stage where we're doing actual investigation. So a formal complaint has been filed. During this stage of the complaint process, the investigator who is assigned to the case, or it could be multiple investigators depending, they are participating in conducting interviews with everyone involved. So we're talking about interviewing the complainant or the aggrieved party, and interviewing named respondents, maybe their agents who might have been involved in the particular conduct being alleged. The investigators are also interviewing witnesses, so people who may have firsthand knowledge of what happened to the aggrieved party or who may have had similar experiences with the respondent that can provide some firsthand statements to the department.

During the investigative stage we're also requesting information from the respondents, requesting things like who owns and manages the property, how many other properties does this person own or manage. We're requesting copies of tenant files, lease agreements, often a description of applicable policies and copies of those policies. Sometimes we want a list of employees who work at the housing because they may be potential witnesses. So even maintenance workers, we may want to know who those folks are.

So we're reviewing documents, both to confirm any defenses that were made to the allegations of discrimination, to try and get a picture of what really happened. We're also looking for comparative evidence during the investigative phase. So we're looking to see if a housing provider consistently follows a policy that they maintain. Do they maintain good records? Have they documented interactions with the complainant that can be relevant evidence during an investigation?

We also may conduct some onsite visits. Pre-Covid, onsite was my favorite thing to do because I loved to read what it looks like on paper, but I love as an investigator to see what it looks like with my own eyes. Onsite visits help us determine where people are located in a particular housing development, what's around the development. It specifically helps us to conduct accessibility surveys to see if things are accessible for individuals who use wheelchairs. And it could even help us collect additional witnesses. So I have been known to show up at a property and just knock on people's door, again this was pre-Covid, and find out, hey, did you know Ms. Smith that used to live next door? What do you remember about when she lived here? So onsite visits are also a part of the investigative process.

Also pre-determination conciliations happen during investigation phase. HUD is required by the Act, so this is a statutory duty that we have, to provide the parties with an opportunity to resolve the fair housing dispute through voluntary conciliation before a determination is issued. So this

could happen early on in the investigation or it can happen later in an investigation. But it usually happens and it must happen voluntarily before a determination is issued. So let's review conciliations just a bit more.

Conciliations. I think that this is one of the most unique parts of the Fair Housing Act because it spells out in the Act that this is something that the parties can expect to be available to them when they file a complaint with HUD. So when you're conciliating, there's no admission of wrongdoing. So the respondents aren't saying, yes -- usually they're not saying, yes, we did this thing. What they're saying is the parties are saying that we agree to come to meet halfway in the road to resolve this dispute. And maybe the complainant walks away with some relief. And HUD makes sure that the public's interest is vindicated and that then the complaint is dismissed as a result of the agreement.

There's no determination of whether the complaint has merit during the conciliations. So HUD has not determined that in fact there was a violation on the Act. One thing that I learned in law school is one of the best conciliations or settlement agreements is when both parties kind of walk away having given up something. But HUD facilitates these negotiations. That's important to remember. If you can think it would be probably be daunting and intimidating to have to directly sit down across the table with someone who you've accused of discriminating against you, maybe that's intimidating. HUD facilitates the negotiation to avoid power imbalances. Often these housing providers have legal representation and the complainants do not.

So it's very common for HUD to conduct separate negotiation conferences, where HUD is taking an offer made by a complainant to the respondent separately, and just going in between the parties to communicate the offer. So they don't have to -- it's not a confrontational process. Agreements are drafted by HUD and they are approved by HUD. They are also monitored for a year or until the terms of the agreement can be satisfied. So agreements are also made public. And that is usually a boilerplate term in our conciliation agreement that the parties understand that the agreement can be or will be made public, unless there's some special circumstance that has to be improved by the HUD secretary that applies. We're keeping the conciliation agreement as in the best interest of minors or persons with specific disabilities, for example. But for the most part --

Sid Alvarado: Hi, I'm sorry, Erika. Hi, this is Sid. Just in the best interest of time we only have two minutes more for this session. So just wanted to ask you to wrap this up so that we could finish up for the next session. Thank you.

Tiffany Johnson: Thank you so much. I am wrapping it up right now. I get very excited when I'm talking about this stuff. It's a passion. I know you guys want this information. So let's move on to determinations. Determination is another outcome of our investigations if conciliation fails. The possible outcome could be a no reasonable cause or a reasonable cause determination is issued. So no reasonable cause to believe the Act was violated or reasonable cause to believe the Act is violated. And that determination is issued by HUD in writing to all the parties involved. And they also get notice of what their rights are after the determination has been issued. If appropriate, if it's a cause case, HUD will issue a charge and will let the parties know that they have the right to proceed in civil court or to move forward with an administrative law hearing.

So how do you file a fair housing complaint. There are various ways to file one. You can file a complaint online in this wonderful virtual environment that we have. HUD has made it super easy to go online on our website and file a complaint in English or in Spanish. You can send an email of the complaint form to HUD by email in different languages as well. You can also call HUD up. There is a 1-800 number. We also have a TTL line, I believe, that people with hearing disabilities can use. But you can call us up free of charge, and leave a message, or speak with someone, to file a complaint. And lastly by mail. A lot of people are out there still using mail. And so HUD makes it possible for you to print out the complaint form and mail it to your regional FHEO office that's on a list that is provided.

So the most important guidance I want to leave you with with filing a complaint is to advise your clients to document their situation well, keep really good records, identify their own witnesses if possible, and provide those to HUD during the complaint process, and to also document when they make contact with HUD, and who they spoke to about their complaint. So this concludes my review of fair housing practice tools, obligations, and how to file a complaint. Thank you so much for your attention.

Sid Alvarado: Thank you, Erika, as well as Tiffany for all of the great information that you provided. Before we end this session, we do have two quick Mentimeter questions that we just want to ask. And then we're going to go over some resources that you'll have available to you. And then we're going to talk a little bit about the next session that is coming up. So our next question is, other than conciliation, what happens throughout? Provide the correct order of the complaint process. And Erika just so kindly went over this.

And thank you Erika so much for addressing the error in the last question that we have about there being two options to the exemptions. Many of you housing counselors kind of chimed off on that and say, hey, there should be two options. We were just testing your knowledge, wanted to make sure that you knew that. But thank you so much, Erika, for addressing that and correcting that.

So for this question, other than conciliation what happens throughout, provide the correct order. And it looks like everyone is coming in at -- not everyone -- mostly everyone is coming in at intake, and filing investigation, and determination. And that is the correct answer there.

The next question is, what are some methods used to file a fair housing complaint? We just went over that slide. So the options are online and mail, email and phone, none, or both A and B. And it looks like most people are gravitating to both A and B. And if you have answered that, that is the correct, online, mail, and phone is the correct answer. And that would include A and B. Thank you so much.

So what are some of the resources. We definitely always like to leave housing counselors with resources. So we provided the Fair Housing Act, the history which we went through a little bit, fair housing and related laws, filing a Fair Housing Act complaint which just was discussed, file a complaint in a language other than English. And then we have HUD and DOJ statement on reasonable accommodations, and then the same on reasonable modifications. For many of you

who had questions, it was related to reasonable accommodations and modifications. And you can find your answer most likely by going to that link and pressing there. Then there's the National Fair Housing Alliance and then Fair Housing Accessibility.

We definitely tried our best to answer all of the questions that you had. If we did not get to your question, we do advise and encourage you to go over to Whova where we will consistently and continually engaging with you even after this session here. This concludes our session for today. We would like you to join us for the next session which is starting in just a few moments at 2:30. And this session is going to be talking about credit and lending discrimination under the ECOA as well as FHA.

Thank you so much for joining us. We hope that this information was not only useful information, but it was enlightening, that you can use the resources and the information that you learned to continually help with your clients and to advocate. And we look forward to seeing all of you during our next session. Thank you so much.

(END)