



**National
Fair Housing**
TRAINING ACADEMY

Basics of Fair Housing

November 16-19, 2020



Welcome from the Instructors

- **Jeffrey P. May**
- **Michael D. Mitchell**
- **Keenya Robertson**

Welcome to NFHTA

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Fair Housing and Equal
Opportunity (FHEO)



Zoom Overview

Speaker/Microphone Audio Test

Speaker

Select a speaker to test:
Headset Earphone (3- Jabra UC VOICE) ▼ **Test**

Check if the volume is turned up:
— [Slider] +

Microphone

Select a microphone to test:
Headset Microphone (3- Jabra UC VOIC) ▼

Speak into your microphone and adjust the volume until the green bar moves into the good range.

[Slider] — **Good** +

Automatically adjust volume

Webinar Instructions

Close email and other programs

For technical difficulties:

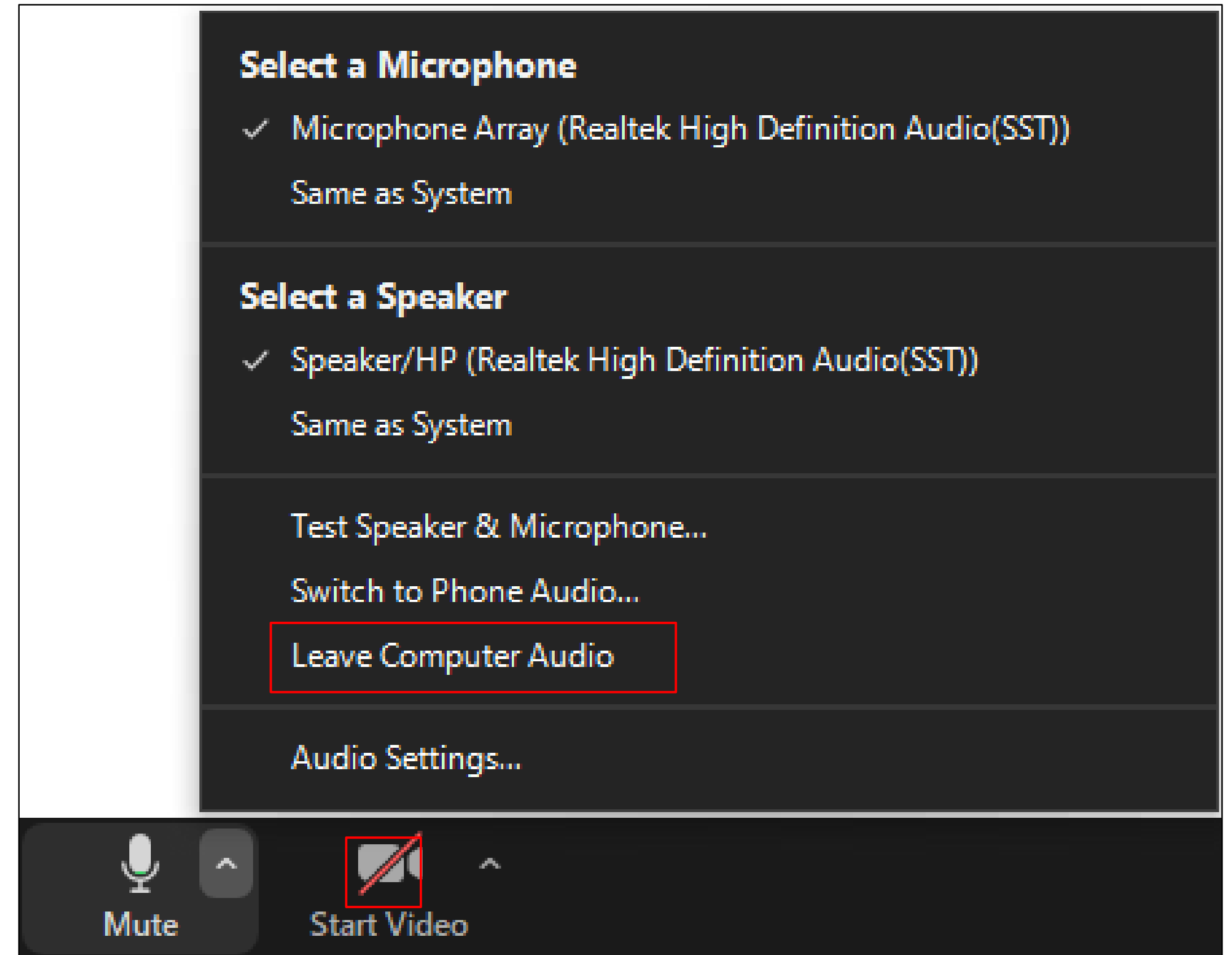
- Sign out, then sign back in
- Request help in the Chat box

This session will be recorded



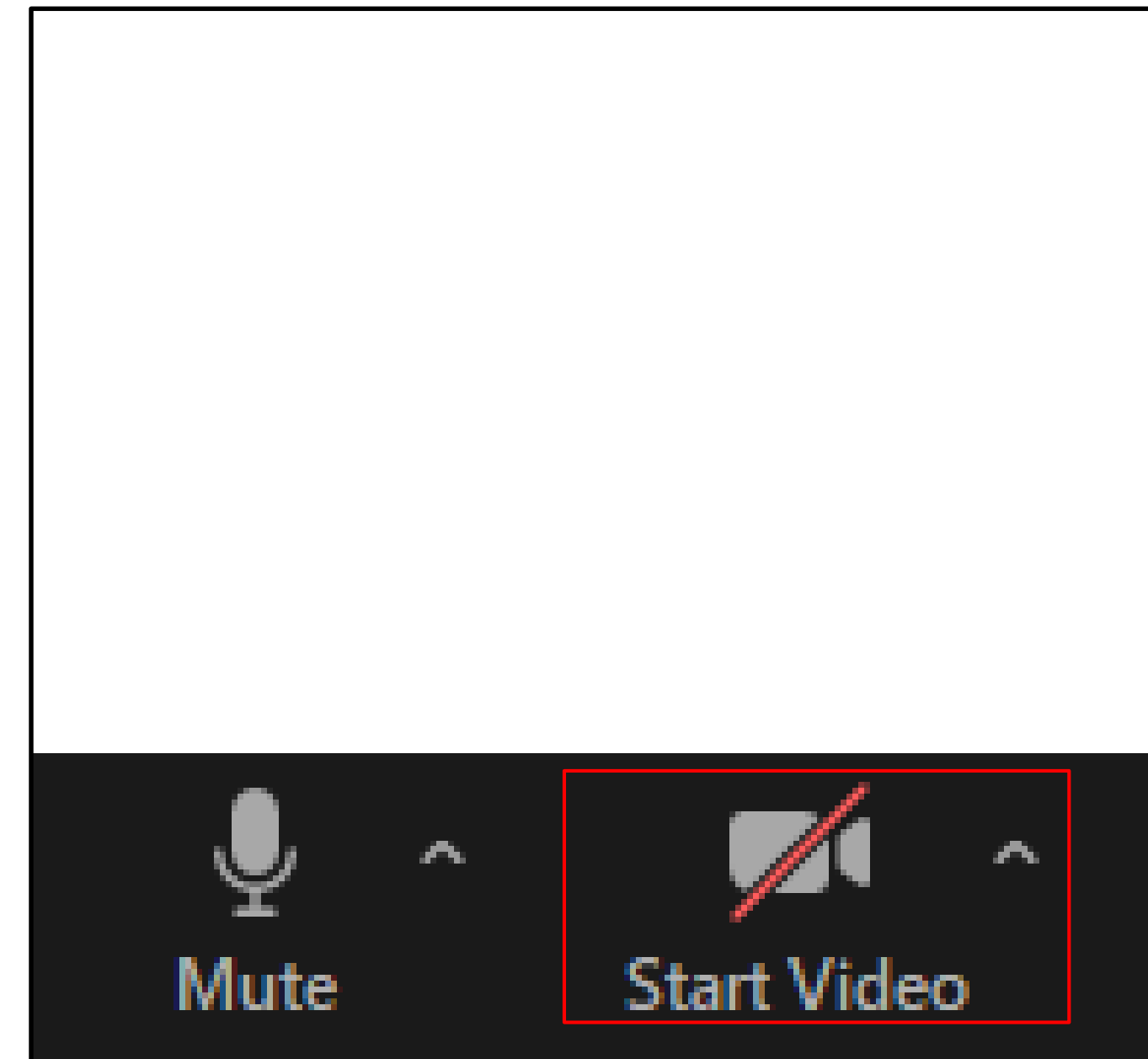
Audio

Change your audio settings.



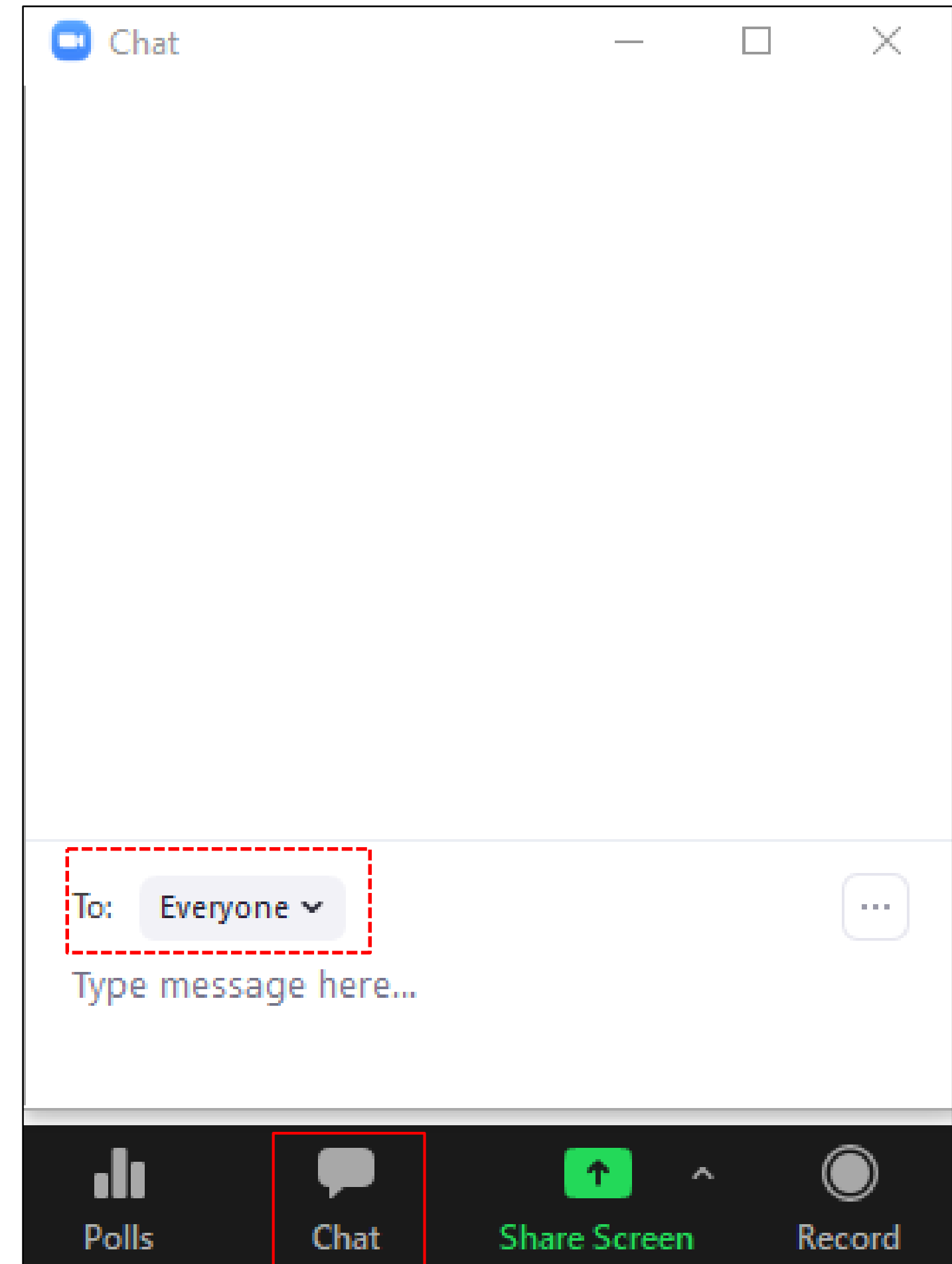
Video

If possible, turn on your webcam.



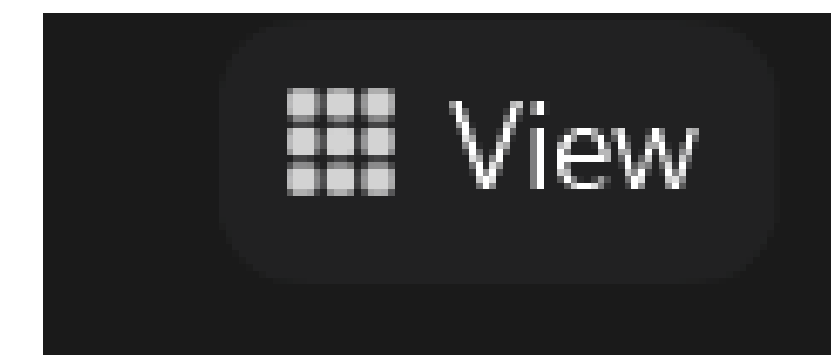
Chat

Use the Chat box to communicate with the instructors and other participants.



Zoom Layout

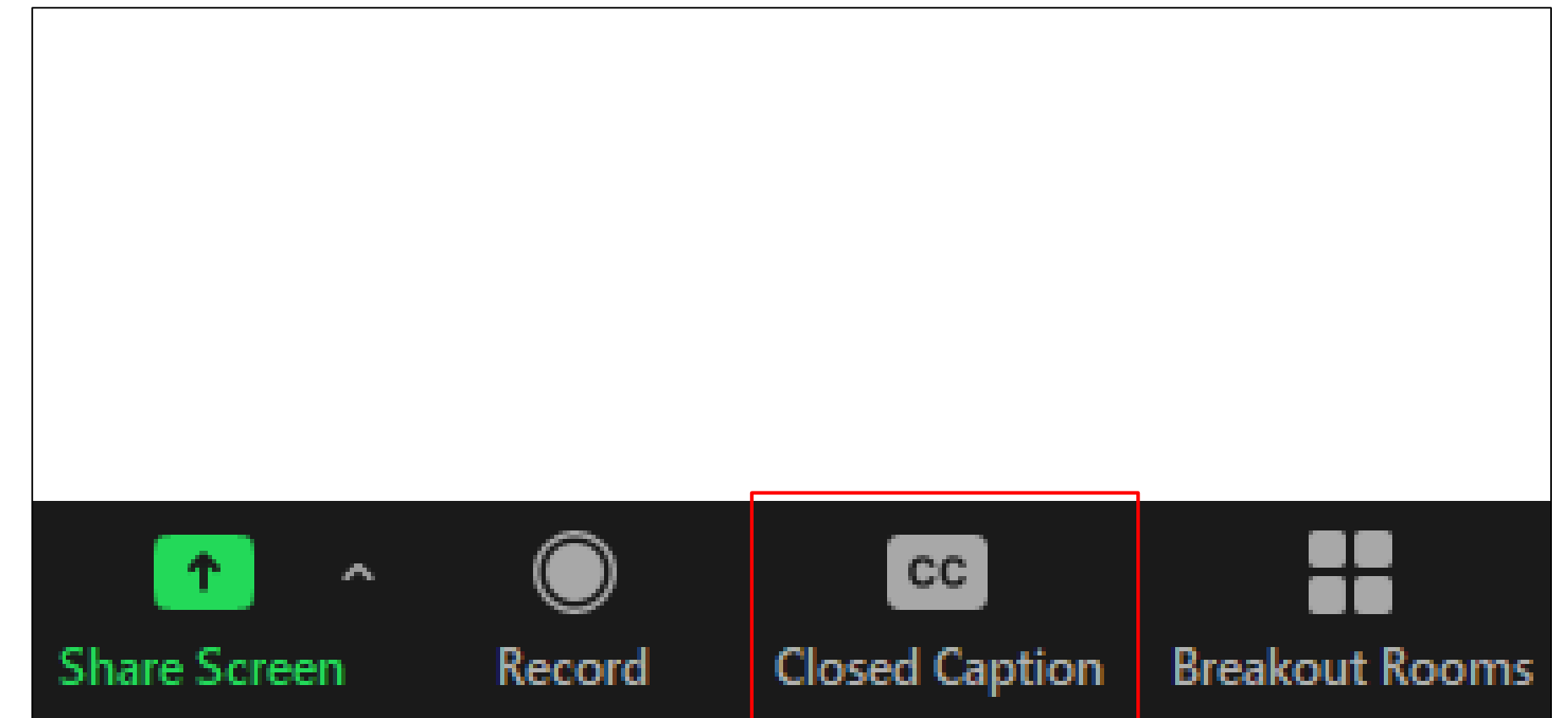
Click the View button on the top right of your screen to change your Zoom layout.



It is recommended that you select Side-by-Side: Gallery to view the slides and participant webcams together.

Closed Captions

Closed captions will be provided in a box on the bottom center of the screen.



Whiteboard

Facilitator will open the whiteboard.

When in breakout groups, everyone can type into the whiteboard.

Select a pen or “text box” under Annotate.



Basics of Fair Housing Learning Objectives

Understand

Understand how the history of housing discrimination affects the kind of segregation and housing discrimination we see today.

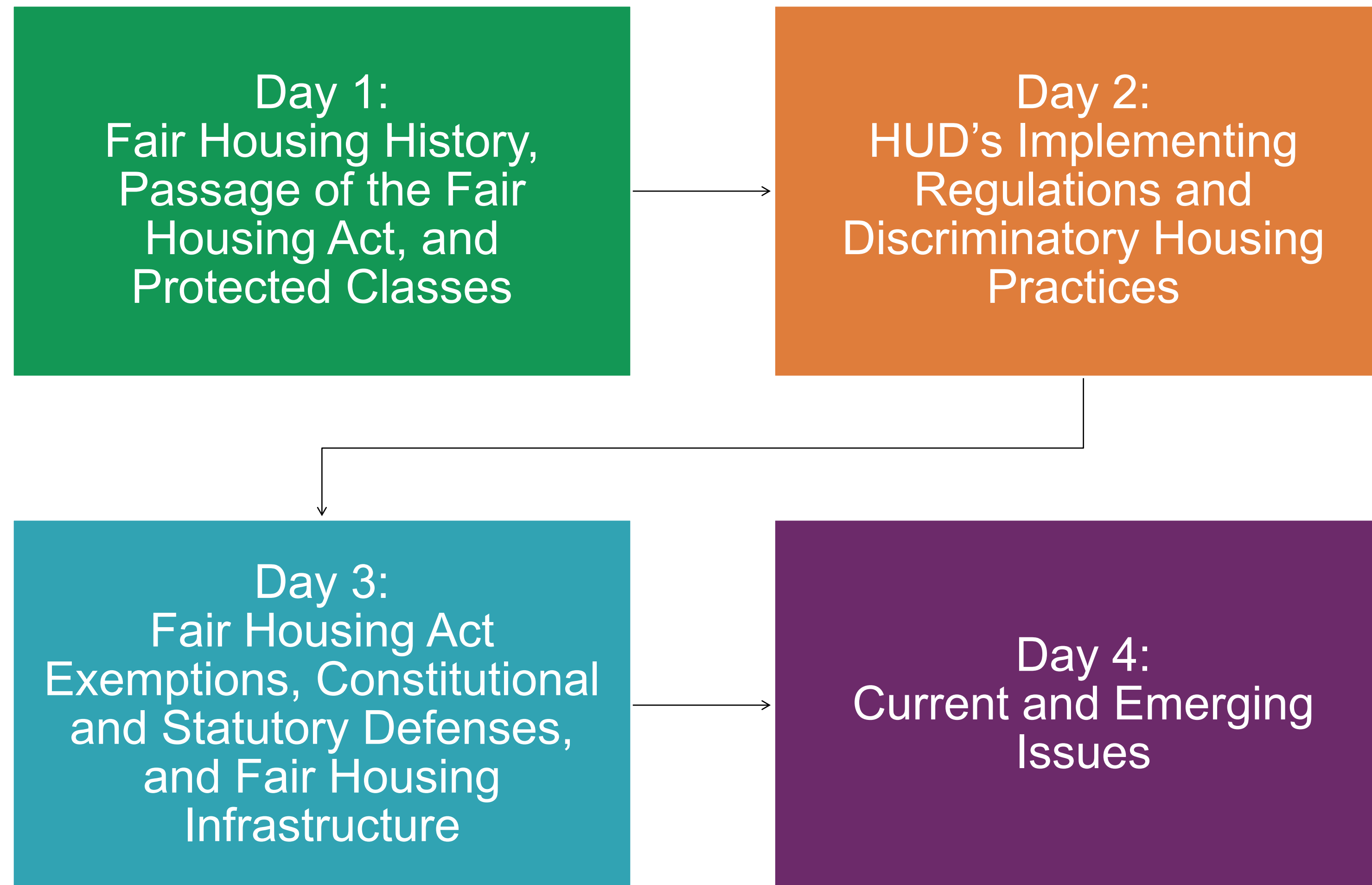
Apply

Be equipped to apply the Fair Housing Act to address housing discrimination complaints that are received today.

Engage

Engage with peers from other organizations to share experiences and methods for effective fair housing investigations and enforcement.

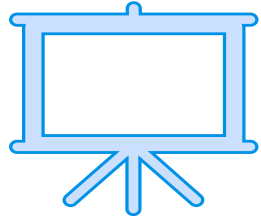
Basics of Fair Housing Outline



Basics of Fair Housing Course Materials



Agenda



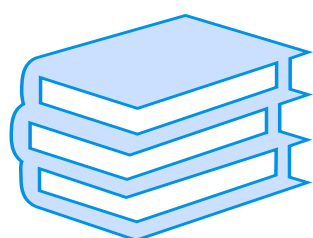
Training Slides



Participant Reference Guide



Participant List



Reference Materials

Participant Expectations



Day 1— Fair Housing History, Passage of the Fair Housing Act, and Protected Classes



Engage

Getting to know each other

In the Chat box, please provide the following info:

- **Name, organizational affiliation, and geographic location**
- **Are you working remotely or going into an office?**
- **If from a FHAP agency, what would you like to learn about FHIPs?**
- **If from a FHIP organization, what you would like to learn about FHAPs?**

Day 1 Learning Objectives

Understand

Understand how the history of housing discrimination affects the kind of segregation and housing discrimination we see today.

Apply

Learn the importance of protected classes and how we address them in our everyday work.

Know the history of civil rights and fair housing to inform our professional responsibility.

Engage

Meet and connect with peers to understand differences between Fair Housing Initiatives Program (FHIP) and Fair Housing Assistance Program (FHAP) organizations.

Engage in understanding how FHIPs and FHAPs support each other.

Importance of Fair Housing Work

- Various exclusionary tools and methods have been used throughout history to deny certain individuals the right to access housing opportunities of their choice.
- Where we live affects the rest of our lives—housing is so much more than the roof over our heads.
- Where one lives matters with respect to access to goods and services, education, food, healthcare, and opportunities for social and professional mobility.
- Housing markets do not just impact dwellings—they drive education, employment, health, safety, insurance rates, municipal and commercial services, and wealth in the form of home equity.





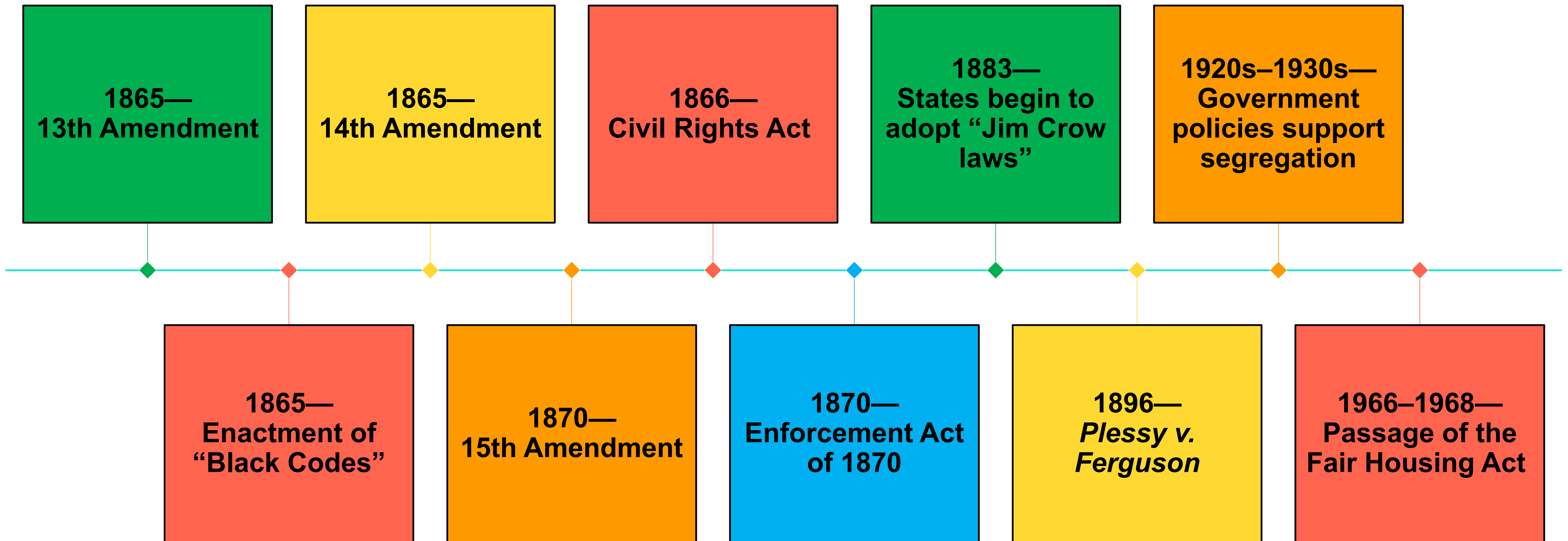
Grounding our Professional Responsibility

Historical Overview of Housing Discrimination

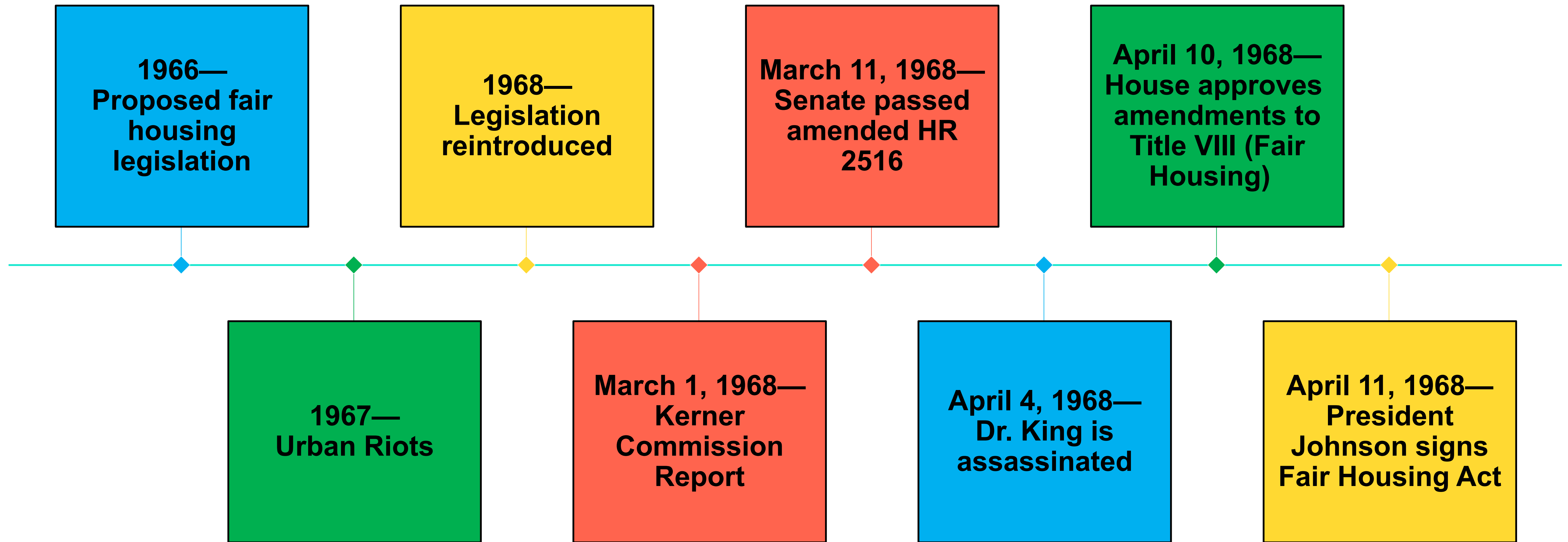
How did we get to this point?



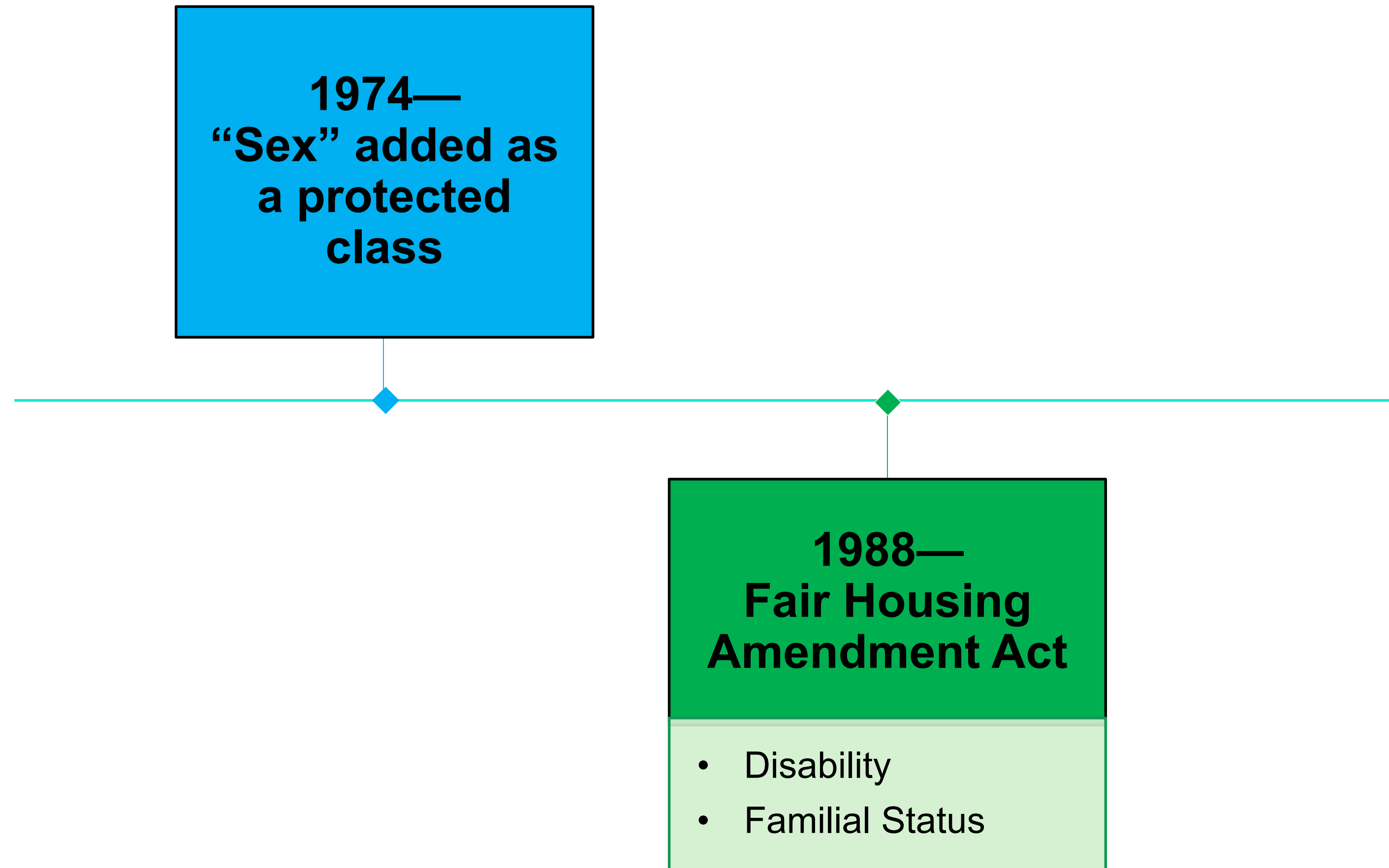
History of Civil Rights



Passage of the Fair Housing Act



Passage of the Fair Housing Act Amendments: Additional Protected Classes



Large Group Activity

From the *NFHTA Fair Housing Opens the Doors*, *Segregation by Design*, and *Seven Days* Documentary videos, let's discuss—

- What actions led to segregation and housing discrimination?
- What were the goals of the Fair Housing Act when it was passed? Have these goals been fully achieved? Why or why not? If not, what can you do?

Debrief



The Fair Housing Act

Fair Housing Act

Fair Housing Act

Generally prohibits any adverse residential housing-related actions taken on the basis of one or more protected class statuses.

Protected Class

Critically important to know and be able to determine if protected class membership played a role in the housing-related action.

Absent connection to one or more protected classes, there is no fair housing case.

BREAK

Protected Class Categories

1. Race
2. Color
3. National origin
4. Religion
5. Sex
6. Familial status
7. Disability

Introduction to Breakout Rooms

- The large group will be split into 4 separate breakout rooms.
- Each participant has been pre-assigned to the same breakout room for the entire course.
- For each breakout discussion, please identify someone to report out to the larger group debrief; please rotate the responsibility.
- There will be a presenter or tech support person in each breakout group to provide support, if needed.
- There is an “ask for help” button in the breakout room, if needed.
- The meeting room will be closed out at the agreed-upon time.
- All participants can add notes to the breakout room whiteboard.

Breakout Activity

In your groups, create a mnemonic that will help you remember the seven federally protected classes under the Fair Housing Act.

Debrief



Fair Housing Act-
7 Protected Class Categories:

“FRESH CORN”

7. **Familial Status**

1. **Race**

Equal Housing

5. **Sex**

6. **Handicap**

2. **Color**

4. **Origin**

3. **Religion**

4. **National**

Additional Protected Classes in State and Local Jurisdictions

- Source of Income
- Age
- Marital Status
- Genetic Information
- Veteran/Military Status
- Student Status
- Other (varies by state statutes and local ordinances)

Day 1 Wrap-Up

- What was one new thing you learned today?
- On what topic or subject would you like to receive additional information or further clarification?
- Training plan for Days 2–4
- Homework



Homework Overview

Review your state or local fair housing statute or ordinance for homework and Day 2 discussion.

Identify additional protected classes in your jurisdiction, if any.

1. What additional protected classes exist in your jurisdiction?
2. What are the two or three most frequent protected class categories listed in complaints in your office?
3. What protected class categories are not identified or are rarely identified in complaints?

Day 2—

HUD's Implementing Regulations and Discriminatory Housing Practices





Engage

**Getting to know
each other**

**In the Chat box, please provide
the following info:**

- **Name, organizational affiliation, and geographic location.**
- **How does your family describe what you do?**

Day 2 Learning Objectives

Understand

Understand HUD's Implementing Regulations and Discriminatory Housing Practices.

Apply

Identify when and how to apply HUD's Implementing Regulations in your work.

Engage

Discuss applications of regulations and determinations of discrimination from case scenarios.

Large Group Activity

In the Chat box please list:

1. Additional protected classes in your jurisdiction, if any.
2. What are the two or three most frequent protected class categories listed in complaints in your office?
3. What protected class categories are not identified or are rarely identified in complaints?

Debrief

HUD's Implementing Regulations

WE
ARE
EQUAL!



Large Group Activity

Take out your Participant Reference Guide to review HUD's Implementing Regulations.

HUD's Implementing Regulations

HUD's Implementing Regulations—24 C.F.R. § 100— Discriminatory Conduct Under the Fair Housing Act

- Provides guidance and examples in interpreting and applying the Fair Housing Act
- HUD's Fair Housing Act Regulations: [Electronic Code of Federal Regulation](#)

Statutory and Regulatory Framework

WE
ARE
EQUAL!



Statutory and Regulatory Framework

Overview of the Fair Housing Act's Statutory and Regulatory Framework

- Declaration of Policy—Section 801
- Definitions—Section 802
- Prohibitions—Sections 804, 805, 806, and 818

Section 801 and 802

Section 801—Declaration of Policy (42 U.S.C. § 3601 & 24 C.F.R. § 100.5)

Section 802—Definitions (42 U.S.C. § 3602 & 24 C.F.R. § 100.20)

Fair Housing Act Prohibitions

- Prohibits any of the following actions taken on the basis of protected class status with respect to the sale or rental of housing:
 - Refuse to rent or sell housing (Section 804(a))
 - Refuse to negotiate for housing (Section 804(a))
 - Make housing otherwise unavailable (Section 804(a))
 - Deny a dwelling (Section 804)(a))
 - Set different/less favorable terms, conditions, or privileges for sale or rental of a dwelling (Section 804(b))
 - Provide different/less favorable housing services or facilities (Section 804(b))

BREAK

Fair Housing Act Prohibitions (cont.)

Oral or written statement indicating a limitation or preference based on protected class status (Section 804(c))

Note: Applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act

Misrepresentation concerning availability of housing (Section 804(d))



Fair Housing Act Prohibitions (cont.)

Makes it illegal to:

- Persuade owners to sell or rent because of the entry of a protected class into a neighborhood (blockbusting) (Section 804(e))
- Discriminate on basis of disability (Section 804(f))
- Threaten, retaliate, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right (818) (42 U.S.C. § 3617)



Disability Discrimination

Discrimination in sale or rental of housing based on disability—Section 804 (f)

- Discrimination in the sale or rental of (or otherwise make unavailable or deny) a dwelling to any buyer or renter because of a disability of that buyer or renter
- Section 804(f)(3)(A)—Reasonable Modifications
- Section 804(f)(3)(B)—Reasonable Accommodations
- Section 804(f)(3)(C)—Design and Construction (Accessibility Requirements) of Covered Multifamily Dwellings



Discrimination in Residential Real-Estate Transaction—Section 805

- 24 C.F.R. Subpart C, §§ 100.110–100.148)
- Refuse to make a mortgage loan (Section 805)(b)(1))
- Refuse to provide information regarding loans (Section 805(a))
- Impose different/less favorable terms or conditions on a loan, such as different interest rates, points, or fees (Section 805(a))
- Discriminate in appraising property (Section 805(b)(2))
- Refuse to purchase a loan (Section 80)(b)(1))
- Set different/less favorable terms or conditions for making or purchasing a loan (Section 805)(a) and (b)(1))



Discrimination in Provision of Brokerage Services—Section 806

- **Section 806—Discrimination in Provision of Brokerage Services (24 C.F.R. §§ 100.200–100.205)**

It shall be unlawful to deny any person access to, membership of, or participation in any multiple-listing service, real estate brokers' organization, or other service...or conditions of such access.



Prohibitions Against Threats and Discrimination—Section 818

Interference, Coercion, or Intimidation (Retaliation)—Section 818

Unlawful to threaten, retaliate, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right. (42 U.S.C. § 3617).

Must review HUD's regulations in any 818 case (24 C.F.R. § 100.400)

Breakout Activity

In your group—

Compare your fair housing ordinances or statutes with the Fair Housing Act.

List the differences you identify.

- For example, the Fair Housing Act is restricted to residential property. Is your state statute or local ordinance restricted to residential property?
- Does your fair housing statute or ordinance cover the violations in the previous screens?

Debrief

Violations; Bodily Injury; Death; Penalties —Section 901

Provides criminal penalties for threats and force of threats which injure, intimidate, or interfere with rights protected under the FHA. (42 U.S.C. § 3631)

Large Group Activity

An elderly disabled man asks to install grab bars in his bathroom. Does he have a right to install grab bars? If so, will he have to restore the bathroom to its original condition at the end of his tenancy?

- Do the [Fair Housing Act](#) or HUD's regulations specifically answer these questions? If so, how should you answer these questions?
- Does this change if federal financial assistance is involved?

Debrief

Day 2 Wrap-Up

- What was one new thing you learned today?
- On what topic or subject would you like to receive additional information or further clarification?
- Training plan for Day 3
- Homework





Day 3—Fair Housing Act Exemptions, Constitutional and Statutory Defenses, and Fair Housing Infrastructure



Engage

Getting to know each other

In the Chat box, please provide the following info:

- **Name, organizational affiliation, and geographic location.**
- **How long has your organization been operational?**

Day 3 Learning Objectives

Understand

Fair Housing Exemptions, Constitutional and Statutory Defenses, and the Roles and Responsibilities of Fair Housing Stakeholders.

Apply

Practice skills to review and apply the HUD regulations. Identify when and how to apply exemptions and defenses to claims.

Engage

Identify connections across the Fair Housing Infrastructure.

Large Group Activity

Applying what we learned from Day 2

How to conduct research on prohibitions.

Basics of Fair Housing Resource List

Prohibitions

Prohibition	Identify where the prohibition is found in the Fair Housing Act or the HUD regulation
Steering families with children to other apartment buildings.	
Mobility-impaired tenant's request for an assigned parking space (as an exception to the housing provider's first-come-first-served parking policy).	
Oral statement by owner that preference will be given to applicants of a particular nationality.	

Prohibitions

Prohibition	Identify where the prohibition is found in the Fair Housing Act or the HUD regulation
Steering families with children to other apartment buildings.	Section 804(a) and/or (b) 24 C.F.R. § 100.70(c)
Mobility-impaired tenant's request for an assigned parking space (as an exception to the housing provider's first-come-first-served parking policy).	Section 804(f)(3)(b) 24 C.F.R. § 100.204(b) (Example 2)
Oral statement by owner that preference will be given to applicants of a particular nationality.	Section 804(c) 24 C.F.R. § 100.75(b)

Fair Housing Act Exemptions



1. Single-Family House



2. Mrs. Murphy (Owner-Occupied) Property



3. Religious Organization



4. Private Club



5. Housing for Older Persons

Other Exemptions

- Reasonable occupancy standards
- Persons convicted of drug manufacturing or distribution
- Persons whose tenancy presents a direct threat to health, safety, or property
 - Not generalized views regarding persons with particular types of disabilities

Large Group Activity

Compare the single-family and "Mrs. Murphy" exemptions with the exemptions in your state statute or local ordinance.

Are there differences? If so, what are they?

Debrief

BREAK

First Amendment Considerations

What is and what is not protected activity under the First Amendment?

Must Read:

- HUD Policy—FHEO policy mandates adherence to Substantive and Procedural Limitations on Filing and Investigating Fair Housing Act Complaints that May Implicate the First Amendment (Notice FHEO 2015-01)

First Amendment Considerations (cont.)

Communications Decency Act (CDA)—2 situations:

1. Did the Internet Service Provider (ISP) merely post an ad created by another?

- CDA likely a defense: *Chicago Lawyers Comm. for Civil Rights Under Law, Inc. v. Craigslist, Inc.*, 519 F.3d 666 (7th Cir. 2008).

OR

2. Did the ISP use screens, filters, or suggestions for advertising language that facilitated the placement of discriminatory ads?

- CDA likely **not** a defense: *Fair Hous. Council of San Fernando Valley v. Roommates.com, LLC*, 521 F.3d 1157 (9th Cir. 2008).

Breakout Activity

In your groups, list:

- Three types of activities that constitute protected First Amendment activities.
- Three kinds of discriminatory advertisements or statements that do not receive First Amendment protection.

Provide an example of a situation in which an internet provider will not be able to claim protection under the CDA.

Debrief

Fair Housing Infrastructure

HUD's Role in Fair Housing

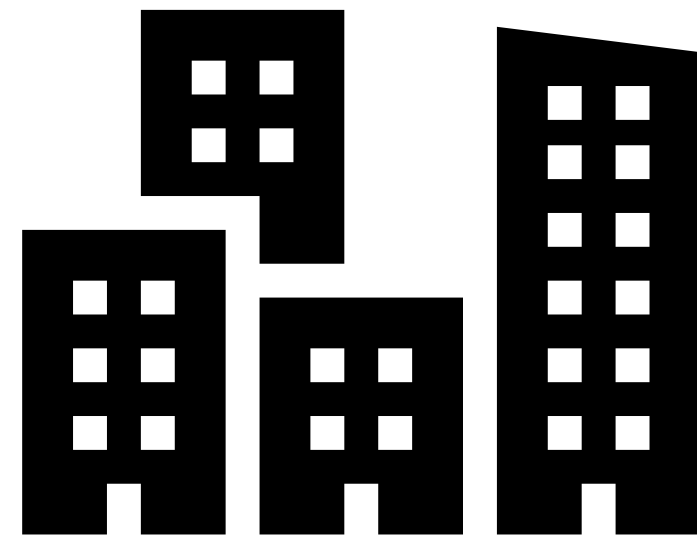
- Fair Housing Enforcement
- Compliance and Monitoring
- Policy Development and Advocacy
- Education and Outreach
- Funding Administration

HUD Fair Housing and Equal Opportunity Structure

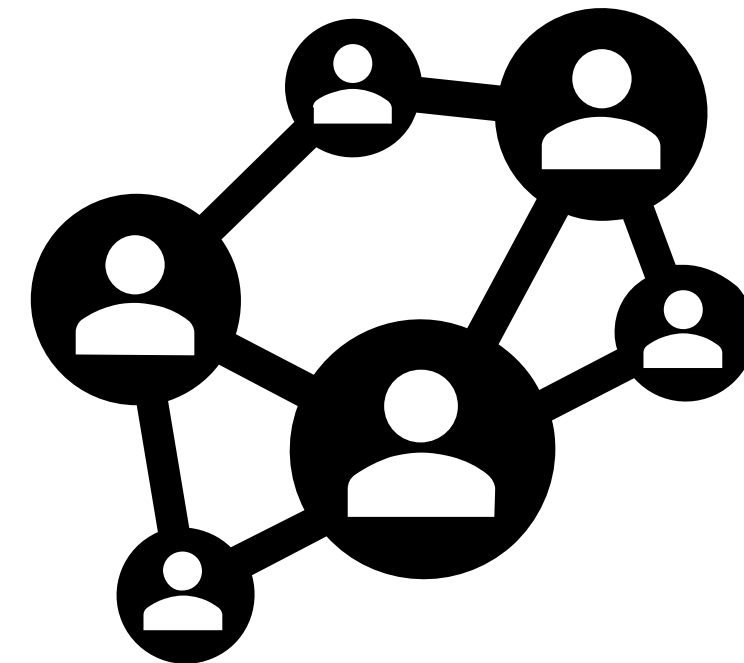
500 Employees



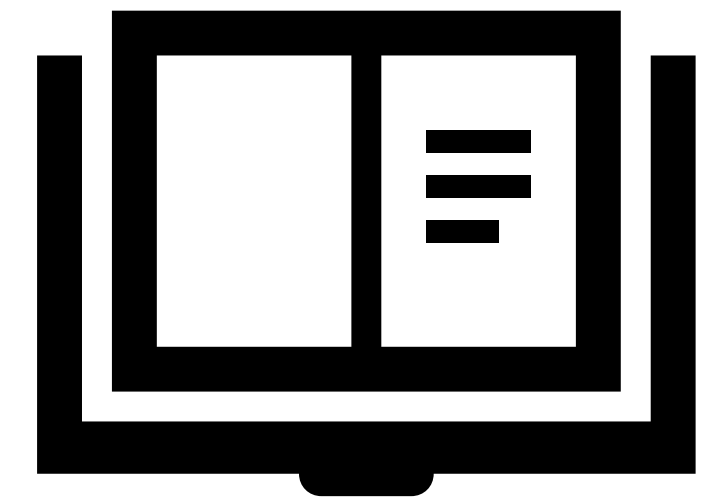
10 Regional Offices



48 Field Offices



7,900 Complaints



HUD Enforces Several Civil Rights—Important to Know for Proper Case Intake, Referral, and Investigation

- Title VIII of the Civil Rights Act of 1968 (Fair Housing Act)
- Title VI of the Civil Rights Act of 1964
- Section 109 of the Housing and Community Development Act of 1974
- Section 504 of the Rehabilitation Act of 1973
- Title II of the Americans with Disabilities Act of 1990
- The Age Discrimination Act of 1975
- Executive Order 11063, as supplemented by Executive Orders 11246, 11625, 12250, 12259, and 12432.



FHAP and FHIP Supporting Roles

Fair Housing Assistance Programs (FHAP)

Provides assistance and reimbursement to state and local fair housing agencies to coordinate intergovernmental fair housing enforcement.

Generally compensated on a "per complaint" basis.

Fair Housing Initiatives Programs (FHIP)

FHIP organizations that assist individuals who believe that they have been victims of housing discrimination. FHIPs also conduct testing.

Receive funding under three programs:

- Private Enforcement Initiative (PEI)
- Education and Outreach Initiative (EOI)
- Fair Housing Organizational Initiative (FHOI)

Large Group Activity

Discuss:

- What is your understanding of HUD's role? Explain.
- How can a FHIP's testing activities aid a FHAP?
- How can a FHAP's complaint investigating process aid a FHIP?

Fair Housing Enforcement

- HUD Administrative Proceedings
- Attorney General (Department of Justice) Proceedings
- Private Rights of Action

Department of Justice (DOJ)

Authority Under Three Provisions of the Act:

810

- (c) Failure to Comply with Conciliation Agreement
- (e) Prompt Judicial Action
- (g)(2)(C) Zoning and Land Use Cases

812(o) Civil Action for Enforcement

814

- (a) Pattern and Practice Cases of General Public Importance
- (b)(1)(A) On Referral of Discriminatory Housing Practice
- (b)(2)(A) Enforcement of Conciliation Agreements
- (c) Enforcement of Subpoenas



Private Parties—Fair Housing Court Filings

Fair Housing Claims Filed in Court by Private Parties

Right to file fair housing claims under Section 813 in Federal or State Court

2-year Statute of Limitations

Subject to “tolling”

Private Parties Include:

- Individuals, Parents, and Guardians
- Neighbors
- Testers
- FHIPs
- Municipalities
- HUD
- State and Local FHAPs
- Representative Standing

Day 3 Wrap-Up

- What was one new thing you learned today?
- On what topic or subject would you like to receive additional information or further clarification?
- Training plan for Day 4
- Homework



Homework

Identifying Fair Housing Violations

Review the videos:

- [Fair Housing 101: Race and National Origin](#)
- [Housing Disability Discrimination](#)

Prepare to discuss the violation(s) in each scenario.

Day 4—Current and Emerging Issues



Engage

Getting to know each other

In the Chat box, please provide the following info:

- **Name, organizational affiliation, and geographic location.**
- **What is the closest major airport to your work?**

Day 4 Learning Objectives

Understand

How liability is determined, what disparate impact is, what are emerging issues.

Apply

Knowledge, tools, and resources for timely and compliant determinations.

Engage

Open dialogues with peers about emerging issues.

Breakout Activity

Identifying Fair Housing Violations

Identify the violation(s) in these scenarios:

- [Fair Housing 101: Race and National Origin](#)
- [Housing Disability Discrimination](#)

Using the whiteboard, report out (as a group) the protected classes involved and all potential violations. Please list the sections of HUD's Regulations that apply to each violation. Identify one person to report out in large group debrief.

Debrief

Poll

Poll of Emerging Issues

- National Origin Discrimination and Limited English Proficiency
- Sex Discrimination and Quid Pro Quo and Hostile Environment
- Familial Status—Occupancy Standards
- Disability—Reasonable Accommodations
- Disability—Reasonable Modifications
- Disability—Emotional Support Animals
- Housing for Older Persons
- Zoning
- Sexual Orientation/Gender Identity

Debrief

Fair Housing Issues Remain

Examples:

- Segregated Housing Patterns Across Many Communities
- Homeownership Disparities
- Steering
- Institutionalization of People with Disabilities
- Exclusionary Zoning (“NIMBY”)
- Urban Renewal and Gentrification
- Continued Instances of Reported and Unreported Housing Discrimination

BREAK

HUD's Standards for Determining Liability

Neighbor-on-Neighbor Harassment

Liability for Discriminatory Housing Practices

- Direct Liability
- Vicarious Liability

Types of Liability

Direct Liability

1. Person liable for own discriminatory conduct.

2. Failure to take prompt action to correct/end discriminatory conduct by employee or agent where they knew or should have known of discriminatory conduct.

3. Failure to take prompt action to correct/end discriminatory conduct by third party where they knew or should have known [Note: Must have duty to take corrective action.]

Vicarious Liability

Person liable for discrimination by agent or employee regardless of whether they knew of or should have known, consistent with agency law.

Breakout Activity

On the whiteboard in your group, list three possible sources for the duty of a housing provider to address neighbor-on-neighbor harassment.

Debrief

Disparate Impact

The Supreme Court has recognized that discrimination under the Fair Housing Act may be proven through evidence of discriminatory effects (*Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 135 S. Ct. 2507 (2015)).

Use of Criminal Records in Housing Decisions

- Intentional discrimination in the use of criminal history records
- Disparate impact discrimination in the use of criminal history records

Large Group Activity

What outstanding questions do you still have to apply this new knowledge in your job?

Course Wrap-Up

- What was one new thing you learned today?
- What did you learn that you can apply to your work today?
- Course evaluation
- Certificate of Completion



Thank you for participating!
Please join us in future trainings.

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