



NATIONAL CENTER FOR LESBIAN RIGHTS

## **HUD LGBT Equal Access Rule**

### **What does the HUD LGBT Equal Access Rule say?**

The new rule makes positive changes to current Department of Housing and Urban Development (HUD) policies and will help the lesbian, gay, bisexual, and transgender (LGBT) community. These changes include prohibiting owners and operators of HUD-assisted or HUD-insured housing from discriminating against an applicant or resident based on sexual orientation or gender identity; prohibiting all lenders offering Federal Housing Administration-insured mortgages from considering sexual orientation or gender identity in determining a borrower's eligibility; and clarifying the definition of "family" to ensure that otherwise eligible participants in any HUD programs will not be excluded based on marital status, sexual orientation, or gender identity.

### **What type of housing does this apply to?**

This rule only applies to HUD affiliated housing, including public housing, HUD-assisted housing, and HUD-insured housing. It does not cover *all* housing the way the Fair Housing Act does.

### **What does this mean for owners and operators of HUD-assisted housing?**

It means that if individuals or family were already eligible for HUD-assisted or HUD-

operated housing, the owners and operators cannot discriminate against them based on gender identity, sexual orientation, or marital status. The owners and operators cannot ask about someone's sexual orientation or gender identity and they cannot exclude one or more family members based on whether they are actually or perceived to be LGBT.

### **What does this mean for FHA-insured mortgage lenders?**

Lenders offering FHA-insured mortgages cannot take an applicant's gender identity, sexual orientation, or marital status into account when considering if the applicant qualifies for a mortgage.

### **Can my landlord or mortgage lender ask about my sexual orientation or gender identity?**

Generally, no. Your landlord or mortgage lender is not allowed to ask about your sexual orientation or gender identity. You are welcome to volunteer this information on your own if you are optionally asked in surveys to collect information for state or local requirements or other federal assistance programs.

The one time that your landlord can ask questions about your gender identity or the gender identity of your family members is to determine the number of bedrooms your household should have.

### **Who counts as someone's "family" under this rule?**

HUD programs should broadly apply the word "family." This means that family members who will be otherwise eligible for HUD housing cannot be excluded because they are LGBT or are perceived to be LGBT. For example, under the rule, HUD will recognize individuals as "family" if they are in same-sex unmarried relationships.

**Does this change the Fair Housing Act?**

No. Administrative rules cannot replace federal laws, but they add another layer of guidance for agencies like HUD to properly apply federal policy. This rule does not change the Fair Housing Act in any way.

**If I've been discriminated against in the past, will this rule help me?**

This rule will not help you if you have experienced past discrimination. It will only apply for all acts of discrimination starting on March 5, 2012. If you reapply for housing now or are currently in HUD housing and experience discrimination, you will be protected under the rule.

**How does this rule apply to homeless shelters?**

If a homeless shelter is HUD-funded, this rule applies. A HUD-funded homeless shelter cannot turn individuals away based on their sexual orientation and gender identity.

**Is this the only housing protection for LGBT individuals in housing?**

No. There may also be state, city, or county laws that provide more protection than the federal laws and regulations.

Also, individuals might be able to file a complaint under the Fair Housing Act for related reasons. For example, if a landlord discriminates against a gay man because the landlord thinks he will spread AIDS, this may be illegal discrimination based on disability under the FHA because of the perceived disability. Also, if a non-gender conforming individual experiences discrimination based on gender, he or she may qualify under the Fair Housing Act for a claim of discrimination based on sex.

**How will HUD-assisted and HUD-operated programs learn about this rule?**

HUD has emphasized that it plans to provide education and outreach in order to spread information about this rule.

**Will this rule apply if a religious organization is providing the housing or emergency shelter?**

Yes. All organizations providing HUD-affiliated housing, whether faith-based or otherwise, must follow this rule.

**What if I have a legitimate discrimination complaint?**

If you have experienced discrimination, you have the right to file a complaint with your local HUD program. If your HUD program decides that your complaint is legitimate, then it will fix your situation based on the program-specific remedies for rule violations. These remedies might include withholding HUD financial assistance for the landlord or organization that discriminated against you. HUD will also look into seeing if there is a possible Fair Housing Act claim, which may produce greater remedies under the law.

This rule does not give you the right to sue HUD or get any sort of money reward.

**When does this rule apply?**

The rule is effective on March 5, 2012.

**What is the actual name of the rule if I want to look it up?**

The rule can be found in the Code of Federal Regulations, under:

24 CFR Parts 5, 200, 203, 236, 400, 570, 574, 882, 891, and 982

HUD has also made it available on its website at

<http://portal.hud.gov/hudportal/documents/huddoc?id=5359-F-02EqAccessFinalRule.pdf>

### **How can I file a complaint with HUD if I experienced discrimination?**

If you have experienced housing discrimination, you can report it to HUD for free, by phone, mail, or online. You can:

- Call 1 (800) 669-9777
- Print a form from  
[http://portal.hud.gov/hudportal/HUD?src=/topics/housing\\_discrimination](http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination) and mail it to the regional office as indicated on the website
- Submit an online form at  
[http://portal.hud.gov/hudportal/HUD?src=/topics/housing\\_discrimination](http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination)