



BACKGROUND

HUD's final rule on Equal Access in accordance with an individual's gender in Community Planning and Development Program's was published on September 21, 2016. Its purpose is to protect lesbian, gay, bisexual and transgender individuals and families from discrimination in Department of Housing and Urban Development (HUD) programs and to set an example to the private market.

Note: This rule is not a law, or an amendment to the federal Fair Housing Act, which protects against discrimination in housing based on race, color, national origin, religion, sex, disability, or familial status (whether or not you have children). It is simply a new regulation applied to HUD-funded housing and housing providers.



DEFINITIONS

Sexual Orientation: Refers to whether a person identifies as homosexual, heterosexual, or bisexual.

Perceived Gender Identity: Refers to the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, or gender-related characteristics, sex assigned at birth, or identification in documents. This includes types of gender expression not stereotypically associated with the sex a person was assigned at birth.

THE RULE:



EQUAL ACCESS PROVISION

The rule establishes a new Equal Access Provision

- Housing that is financed, insured, or assisted by HUD must be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.
- Types of HUD funding the rule covers: HUD Community Planning and Development (CPD) Programs, including the Emergency Solutions Grant (ESG), Housing Opportunities for Persons with Aids (HOPWA), Shelter Plus Care (S+C), Supportive Housing Program and any other HUD-assisted programs. Private housing providers with no FHA loan are not subject.



FEDERAL HOUSING ADMINISTRATION LOANS

The rule adds sexual orientation and gender identity to the existing FHA equal access provision

- Prohibits lenders from determining eligibility for FHA-insured loans on actual or perceived sexual orientation and gender identity.



DEFINITION OF FAMILY

The rule clarifies the definition of "family" and "household" to include LGBT inclusive language

- "Family" now includes persons regardless of actual or perceived sexual orientation, gender identity, or marital status.
- This is crucial because the definition of family determines who is eligible to participate in a HUD program.
- Applies to certain programs only: Emergency Solution Grant (ESG), Section 8, Public Housing, FHA, Community Development Block Grants, Housing Opportunities for Persons with AIDS (HOPWA), 202/811 (elderly and disabled assisted housing).



PROHIBITION OF INQUIRIES

The rule prohibits inquiries about sexual orientation and gender identity

- Prohibits owners and operators of HUD-funded housing, or HUD insured housing (FHA loans), from inquiring about an applicant or occupant's sexual orientation or gender identity, or denying an applicant housing on that basis.
- Any mortgage lender that provides FHA loans must follow this provision, even if an individual is seeking a non-FHA loan.