



**TEXAS DEPARTMENT OF
HOUSING & COMMUNITY AFFAIRS**
Building Homes. Strengthening Communities.

The Equal Access to Housing Rule by the U.S. Department of Housing and Urban Development

July 31, 2012



Presentation Overview

- Overview of the Rule
- 5 Key points of the Equal Access to Housing Rule, also known as the Lesbian, Gay, Bisexual, or Transgender (LGBT) Rule
- Texas and other Local Laws
- LGBT Terms
- The Rule and Homeless Shelters
- The Rule and Faith-Based Organizations
- The Rule and the Fair Housing Act
- Rule Enforcement

Overview of the LGBT Rule

- Ensures that all HUD programs are open to eligible persons regardless of sexual orientation, gender identity, or marital status
- Applies to entities receiving HUD funding, including those funded with ESG, HOME, NSP, and Colonia Self-Help Centers
- Became effective on March 5, 2012
- It's based on the Legal Authority granted by:
 - Section 2 of Housing Act 1949
 - Section 7(d) of the HUD Act
 - Section 3 of U.S. Housing Act of 1937
- Published as a Final Rule on February 3, 2012 by the U.S. Department of Housing and Urban Development (HUD)
- Published as additions to the non-discrimination provisions on 24 C.F.R. Part 5
- Available at: <http://www.hudhre.info/index.cfm?do=viewResource&ResourceId=4599>



5 Key Points of the LGBT Rule

1. Defines sexual orientation & gender identity

- Sexual orientation is defined as homosexuality, heterosexuality, or bisexuality
- Gender Identity is defined as actual or perceived gender-related characteristics

2. Adds a general equal access provision

- Requires entities assisted by HUD or insured by FHA to make housing available without regard to actual or perceived sexual orientation, gender identity, or marital status

3. Clarifies HUD “family” definition

- Clarifies that the definition of “family” and “household,” includes persons regardless of actual or perceived sexual orientation, gender identity, or marital status
- Clarification is key because family identifies who is eligible to participate in some HUD programs
- Clarification has no impact of other program eligibility requirements (income qualification, annual certification, family members named on lease)

5 Key Points of the LGBT Rule (cont.)

4. Prohibits inquiries in certain contexts

- Prohibits HUD-assisted and HUD-insured entities from inquiring about an applicant's or occupant's sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available
- Does not Prohibit:
 - An individual from voluntarily self-identifying sexual orientation or gender identity
 - Lawful inquiries of an applicant or occupant's sex where the housing provided or to be provided is a temporary emergency shelter that involves the sharing of sleeping areas or bathrooms
 - Lawful inquiries of an applicant or occupant's sex made for the purpose of determining the number of bedrooms to which the household may be entitled
 - Voluntary or anonymous reporting of sexual orientation or gender identity pursuant to state, local, or federal data collection requirements

5. Adds sexual orientation and gender identity to existing FHA equal access provision

- Prohibit FHA-approved lenders from basing eligibility determinations for FHA-insured loans on actual or perceived sexual orientation or gender identity



Texas and other Local laws

- Subrecipients should familiarize themselves with local laws that may provide additional requirements for treatment of individuals based on sexual orientation or gender identity

LGBT Terms

LGBT

- Refers to the Lesbian (L), Gay (G), Bisexual (B), or Transgender (T) community
- The LGBT community consist of persons of every race, religion, national origin and ability
- It incorporates two distinct concepts: sexual orientation and gender identity

Sexual Orientation

- Is defined in the LGBT rule as homosexuality, heterosexuality, or bisexuality
- Generally refers to romantic and or emotional attraction - where one falls with regards to sexual orientation, depends on the sex or gender of persons with whom one is attracted

Gender Identity

- Is defined in the LGBT rule as actual or perceived gender-related characteristics
- Refers to an individual's internal sense of being male or female
- Transgender individuals are persons with a gender identity that is different from the gender legally assigned to them at birth

The LGBT Rule & Homeless Shelters

- Shelters receiving HUD funds cannot refuse to serve a person because of sexual orientation or gender identity
- Many shelter facilities are separated based on sex
- There is evidence that transgender people face higher rates of violence and harassment in shelter settings
- While the LGBT rule did not set a specific policy related to placement of transgender individuals in sex-segregated shelters, a HUD-funded shelter should:
 - Consider the safety and comfort of all in determining placement
 - Make placement in accordance with a person's gender identity
 - Make alternative accommodations for transgender people on a case-by-case basis, such as providing a hotel voucher or access to private bathrooms

The Rule and Faith-Based Organizations

- HUD recognizes that faith-based organizations have long provided valuable housing services to low-income persons
- The LGBT Rule does not exempt religious housing providers who wish to exclude LGBT persons from programs, services, or activities

The Rule and the Fair Housing Act

- The Fair Housing Act does not prohibit sexual orientation or gender identity discrimination
- However, if the LGBT rule is violated, an LGBT person's experience with sexual orientation or gender identity housing discrimination may still be covered by the Fair Housing Act

LGBT Rule, or Fair Housing Act Violation?

EXAMPLE:

- An applicant applies for an apartment at a building that receives HUD assistance
- When the applicant enters the rental office, she is wearing a pair of woman's shoes and a skirt
- The leasing agent believes that the applicant is biologically male and denies the applicant an apartment based on the belief the applicant is transgender

Violations:

- This is a violation of the LGBT Rule - the applicant was denied HUD assisted housing because of her gender identity
- This is potentially also a violation of the Fair Housing Act – if the applicant was denied assistance for non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex

Rule Enforcement

- Contact local HUD program office to allege violation of the LGBT rule requirements: www.hud.gov/localoffices
- Report suspected Fair Housing Act violations to the Civil Rights Division of the Texas Workforce Commission: http://www.twc.state.tx.us/crd/housing_fact.html
- HUD housing discrimination hotline: 800-669-9777

Contact Information

- Contact your program or performance specialist with any questions



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