

F.6/D.6

Fair Housing and Equal Access Standards

I. Fair Housing Requirements – In General

A. Relevant Laws. Providers should be aware of and follow the nondiscrimination and equal opportunity requirements outlined in 24 CFR Section 578.93 of the CoC Interim Rule. The HCCSC, all its participating projects, and the Homeless Navigation Hotline (the Hotline) will take all necessary steps to ensure that the HCCSC's coordinated entry system (CES) is administered in compliance with the Fair Housing Act, promoting housing that is accessible to and usable by persons with disabilities. In addition, they will ensure that the CES complies with the non-discrimination requirements of the Fair Housing Act; Section 504 of the Rehabilitation Act of 1973; Title VI of the Civil Rights Act of 1964; and Titles II or III of the Americans with Disabilities Act, as applicable. These laws may be summarized as follows:

1. The Fair Housing Act prohibits discrimination in all housing transactions on the basis of race, national origin, sex, age, color, religion, handicap, and familial status.
2. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.
3. Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, or national origin in programs and activities receiving federal financial assistance.
4. The Americans with Disabilities Act (ADA) prohibits discrimination based on disability in programs, services, and activities provided or made available by public entities. Title II of the ADA protects qualified individuals with disabilities from discrimination on the basis of disability in services, programs, and activities provided by state and local government entities. Title III of the ADA prohibits discrimination on the basis of disability in commercial facilities and public accommodations.

If any provider has doubts about whether a certain action constitutes a violation of one or more of these laws, it should consult with its attorney.

- B. Duty to Provide Reasonable Accommodation. In assessing people for eligibility for particular projects, the Hotline and the projects themselves must honor the right of persons with disabilities to request reasonable accommodation in rules, policies, practices, or services when those accommodations are necessary to afford those persons equal opportunity to access housing and other programs and services available to the homeless.
- C. Situations Where Preferences May be Allowed. Shelter and housing projects cannot prefer any protected class unless allowed by statute, regulation, or a written waiver from their funding or regulatory source. However, the HCCSC recognizes that these statutes allow projects to establish missions to serve only selected subpopulations within the homeless population and to restrict access to its projects accordingly as long as they do not discriminate in selecting or prioritizing for service people within the subpopulations they serve.

D. Equal Access Regardless of Sexual Orientation or Gender Identity.

1. All HUD-funded programs must be familiar with the following regulations and adhere to them to the extent they are applicable:
 - a. HUD's final rule entitled *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity* (77 Fed. Reg. 5662, February 3, 2012), which requires that HUD-funded housing programs be made available to individuals and families without regard to actual or perceived sexual orientation, gender identity, or marital status. (Among other things, this rule prohibits recipients and subrecipients of HUD funds from inquiring about sexual orientation or gender identity to determine eligibility for HUD-assisted housing); and
 - b. HUD's final rule entitled *Equal Access in Accordance with an Individual's Gender Identity in Community Planning and Development Programs* (81 Fed. Reg. 64763, September 21, 2016), which requires recipients and sub-recipients of funding under grant programs administered by HUD's Office of Community Planning and Development (CPD) as well as owners, operators, and managers of shelters and other buildings and facilities and providers of services funded in any part by a CPD program to provide equal access to the funded programs, benefits, services, and accommodations in accordance with any individual's gender identity. Pursuant to this rule, programs to which the rule applies must, among other things:
 - i. Establish or amend their admissions, occupancy, and operating policies and procedures to conform to the requirements of the rule; and
 - ii. Maintain records of the policies and procedures demonstrating their compliance for at least 5 years.
2. All housing, shelter, and other facilities to which these rules apply must post a notice of clients' rights under these rules on bulletin boards and in other public spaces where information is made available.

II. Rules Governing Service to Families in Shelter and In Housing

- A. Requirement to Serve as Families All Groups that Present as Families. All ESG- and CoC-funded shelters and housing projects must serve as a family any group of individuals presenting themselves for assistance together. Further, such projects may not discriminate against a group of people presenting as a family by denying the family or one or more of its members admission based on the family's composition (e.g., adults and children or just adults), the age of any family member, the disability status of any family member, or the marital status, actual or perceived sexual orientation, or gender identity of any family member.
- B. Prohibition Against Involuntary Separation of Families. In screening families for CoC- or ESG-funded emergency shelter or housing, the Hotline and all providers of such shelter or housing must honor the prohibition against denying admission to any family based on the age of any child under Section 404 of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act).

III. Filing Complaints for Violations of These Rules

Any person or any authorized agent of a person who believes that the person has been denied admission to a project or otherwise suffered due to a violation of these fair housing and equal access rules may file a complaint with the Collaborative Applicant by following the appeal procedures outlined in Section VII of the HCCSC's *Coordinated Entry Guide*.