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**FOR RELEASE**

Thursday

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## HUD TO ENFORCE FAIR HOUSING ACT TO PROHIBIT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY

*HUD directive begins implementation of the policy set forth in Biden executive order to prevent and combat sexual orientation and gender identity-based discrimination*

WASHINGTON - The U.S. Department of Housing and Urban Development (HUD) today announced that it will administer and enforce the Fair Housing Act to prohibit discrimination on the basis of sexual orientation and gender identity.

HUD's Office of Fair Housing and Equal Opportunity (FHEO) issued a memorandum stating that HUD interprets the Fair Housing Act to bar discrimination on the basis of sexual orientation and gender identity and directing HUD offices and recipients of HUD funds to enforce the Act accordingly. The memorandum begins implementation of the policy set forth in President Biden's Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation (Executive Order), which directed executive branch agencies to examine further steps that could be taken to combat such discrimination.

**"Housing discrimination on the basis of sexual orientation and gender identity demands urgent enforcement action,"** said Acting Assistant Secretary of FHEO, Jeanine M. Worden. **"That is why HUD, under the Biden Administration, will fully enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. Every person should be able to secure a roof over their head free from discrimination, and the action we are taking today will move us closer to that goal."**

The significance of this action is underscored by a number of housing discrimination studies which indicate that same-sex couples and transgender persons in communities across the country experience demonstrably less favorable treatment than their straight and cisgender counterparts when seeking rental housing. Despite this reality, the Department has been

constrained in its efforts to address housing discrimination on the basis of sexual orientation and gender identity by legal uncertainty about whether most such discrimination was within HUD's reach.

The memorandum relies on the Department's legal conclusion that the Fair Housing Act's sex discrimination provisions are comparable in text and purpose to those of Title VII of the Civil Rights Act, which bars sex discrimination in the workplace. In *Bostock v Clayton County*, the Supreme Court held that workplace prohibitions on sex discrimination include discrimination because of sexual orientation and gender identity. HUD has now determined that the Fair Housing Act's prohibition on sex discrimination in housing likewise includes discrimination on the basis of sexual orientation and gender identity. Accordingly, and consistent with President Biden's Executive Order, HUD will enforce the Fair Housing Act to prevent and combat such discrimination.

**"Enforcing the Fair Housing Act to combat housing discrimination based on sexual orientation and gender identity isn't just the right thing to do—it's the correct reading of the law after *Bostock*,"** said Damon Y. Smith, Principal Deputy General Counsel. **"We are simply saying that the same discrimination that the Supreme Court has said is illegal in the workplace is also illegal in the housing market."**

The memorandum directs actions by HUD's Office of Fair Housing and Equal Opportunity and HUD-funded fair housing partners to enforce the Fair Housing Act to prohibit discrimination on the basis of gender identity or sexual orientation. Specifically, the memorandum directs the following:

- HUD will accept and investigate all jurisdictional complaints of sex discrimination, including discrimination because of gender identity or sexual orientation, and enforce the Fair Housing Act where it finds such discrimination occurred.
- HUD will conduct all activities involving the application, interpretation, and enforcement of the Fair Housing Act's prohibition on sex discrimination consistent with its conclusion that such discrimination includes discrimination because of sexual orientation and gender identity.
- State and local jurisdictions funded by HUD's Fair Housing Assistance Program (FHAP) that enforce the Fair Housing Act through their HUD-certified substantially equivalent laws will be required to administer those laws to prohibit discrimination because of gender identity and sexual orientation.
- Organizations and agencies that receive grants through the Department's Fair Housing Initiative Program (FHIP) must carry out their funded activities to also prevent and combat discrimination because of sexual orientation and gender identity.
- FHEO Regional Offices, FHAP agencies, and FHIP grantees are instructed to review, within 30 days, all records of allegations (inquiries, complaints, phone logs, etc.) received since January 20, 2020, and notify persons who alleged discrimination because of gender identity or sexual orientation that their claims may be timely and jurisdictional for filing under this memorandum.

Persons who believe they have experienced housing discrimination may file a complaint by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 (voice) or (800) 877-8339 (TTY/Relay). Housing discrimination complaints may also be submitted online at [hud.gov/fairhousing](http://hud.gov/fairhousing).

A copy of the directive is available [here](#).







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