



KNOW YOUR RIGHTS: FAIR HOUSING AND TRANSGENDER PEOPLE

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Recent federal guidance and regulations have greatly strengthened the housing rights of transgender people. While we still desperately need a national housing law that explicitly prohibits discrimination based on gender identity and sexual orientation, existing laws provide real protections in many circumstances. This document outlines the housing rights of transgender people and how to file complaints of housing discrimination. Because NCTE does not provide legal services, we encourage any person who cannot resolve housing issues through federal, state, or local fair housing complaint processes to seek legal counsel. We also encourage transgender people who have encountered housing barriers to share their experiences with us to aid our advocacy efforts.

WHAT LAWS PROTECT YOU?

The following laws offer protection for transgender people in housing:

- **The Fair Housing Act** prohibits discrimination based on sex in the sale or rental of housing and in mortgage lending. In recent years, courts have increasingly held that discrimination because a person is transgender, or because he or she fails to conform to gender stereotypes, is sex discrimination under federal civil rights laws. In 2010, the U.S. Department of Housing and Urban Development (HUD) issued guidance stating that it would investigate complaints of housing discrimination against transgender people based on this understanding of the law.
- **U.S. Department of Housing and Urban Development program regulations.** In January 2012, HUD issued regulations explicitly prohibiting discrimination on the basis of gender identity, sexual orientation, or marital status in all federally-funded housing programs. These regulations apply to all public and assisted housing and rental assistance (voucher) programs that receive federal funds (including homeless shelters and other temporary housing), as well as to federally-insured home mortgages.
- **State and local nondiscrimination laws.** Nearly every state prohibits sex discrimination in housing. The following states also currently explicitly prohibit both gender identity and sexual orientation discrimination in housing: California, Colorado, Connecticut, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Massachusetts, Minnesota, New Jersey, New Mexico, Nevada, Oregon, Rhode Island, Vermont and Washington, as well as more than 140 cities and counties.

WHAT ARE YOUR HOUSING RIGHTS?

What types of housing are covered by these protections? Different federal, state, and local laws prohibit housing discrimination on the basis of sex and gender identity in different types of housing. The following types of housing providers and transactions are covered by at least one of these prohibitions:

- Sale of houses and condominiums
- Rental housing on the private market

WHAT ARE YOUR HOUSING RIGHTS? (CONTINUED)

- Rental housing paid for by public housing vouchers or rental assistance
- State and local public housing authorities
- Supportive housing programs
- Transitional housing programs
- Homeless shelters
- Providers of federally-insured mortgage loans

What types of discrimination are covered by the law? It is illegal for a housing provider to do any of the following because you are transgender, or because you are perceived as not conforming to gender stereotypes:

- Refuse to rent or sell you housing
- Refuse to admit you to a homeless shelter
- Tell you housing is unavailable when it is available
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Deny you a mortgage loan, or impose different terms or conditions on a mortgage loan
- Deny you property insurance
- Conduct property appraisals in a discriminatory manner
- Harass, coerce, intimidate, or interfere with you exercising your fair housing rights

The law also prohibits discrimination because of race, color, national origin, religion, familial status, or disability (including if you are, or are perceived as, a person living with HIV/AIDS). In addition, discrimination on the basis of sexual orientation or marital status is prohibited in all federally-funded housing.

What are the housing rights of LGBT families? In public housing and voucher programs, eligibility often depends on establishing that people living together are a family. Federal rules require that LGBT couples and families be treated equally, regardless of the formal status of their relationships. All families are eligible to be treated as a family unit for these programs. Discrimination against LGBT families in any federally-funded housing or federally-insured mortgage lending is illegal. However, in private rental and home sales outside of these programs, some cases of discrimination based solely on sexual orientation or marital status may not fall within the protections of current federal law. State and local laws provide this protection in many parts of the country.

Can a housing provider ask if I am transgender? Asking whether you are transgender may be an indication of discrimination if you are subsequently denied housing or provided substandard housing. If a housing provider receives federal funding—such as housing vouchers or federal grants—the law specifically forbids asking about your gender identity or sexual orientation.

In the case of a homeless shelter or other temporary housing that houses men and women separately, facility staff may ask whether you are male or female if they are unsure where to house you. If asked, you can tell them the gender you identify as. Demands for medical or legal evidence concerning your gender, because you are transgender or are perceived as not conforming to gender stereotypes, may be evidence of discrimination.

Can I be turned away from gender-specific housing or forced into housing with the wrong gender? Refusing to provide housing consistent with a person's gender identity because they are transgender constitutes discrimination based on sex and/or gender identity. In temporary housing that is gender-segregated it is permissible, if staff members are unsure, to ask whether a person is male or female. However, this does not permit a housing provider to exclude transgender people or to single them out for intrusive demands for evidence regarding their gender. This may constitute unlawful discrimination.

WHAT CAN YOU DO ABOUT HOUSING DISCRIMINATION?

Make housing providers aware of the law

Many housing providers are not aware that it is illegal for them to turn someone away because they are LGBT or do not conform to gender stereotypes. Local public housing authorities also may not be fully aware of their obligation to treat LGBT families equally—they may even mistakenly believe that you are not legally eligible as a family. Simply making the housing provider aware of the law may help resolve your problem with them. However, if you encounter mistreatment that cannot be resolved informally, you may file a complaint of housing discrimination.

File a complaint of housing discrimination

If you have experienced one or more of the forms of discrimination described above—or you believe you may be subject to a discriminatory act such as an eviction—you may file a complaint with the U.S. Department of Housing and Urban Development (HUD). Depending on the facts of your situation different laws may apply, which may be enforced by different federal, state, and local government offices. Because it may be difficult to determine which laws may apply to your situation, NCTE currently recommends that all LGBT-related fair housing complaints be directed to HUD's Office of Fair Housing and Equal Opportunity. An attorney is not required, and most complaints are resolved without going to court.

A complaint of discrimination generally must be filed with HUD within one year of a discriminatory action in order to begin the investigative process. If you experience discrimination because you are transgender, make sure to state that you believe you experienced discrimination based on sex.

Once you file a report of discrimination, a HUD representative will contact you to discuss your situation and determine whether the agency can undertake a formal investigation. If you do not get a response, you can follow up with the office you initially contacted to ask about the status of your complaint.

If you have experienced housing discrimination, you can report it to HUD by telephone, mail, or online, at no cost. To report discrimination you can either:

- Call toll-free: 1 (800) 669-9777
- Fill out an online form at http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination
- Print a form from http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination and mail it to the regional office listed on the form

Your complaint will be more effective if you can present solid factual information. Write down the date, time, location, witnesses, and people involved in any events that were discriminatory or disrespectful. Also keep any documents that the discriminating entity gives you. If you present your situation in an organized way, you increase the chance of your complaint getting the attention it deserves.

The Fair Housing Act also permits you to bring a lawsuit directly in federal court against a housing provider that has engaged in discrimination based on sex, race, color, national origin, religion, familial status, or disability. You do not need to file a complaint with HUD first to do this. However, a lawsuit can be a lengthy and expensive process and it may be difficult to succeed without an attorney. Alternatively, if you file a complaint with HUD and the agency does not find reason to believe discrimination occurred, you can later file a lawsuit in federal court. A full explanation of the Fair Housing Act complaint process can be found at: www.hud.gov/offices/fheo/complaint-process.cfm.

Get help

Resolving a case of housing discrimination can be a complicated and stressful process. Don't hesitate to seek help from a local community organization or an attorney (or both). While NCTE does not provide legal services or referrals, there are many other groups that may give you referrals or maintain lists of local attorneys.

WHAT CAN YOU DO ABOUT HOUSING DISCRIMINATION? (CONTINUED)

The National Fair Housing Alliance maintains a directory of non-profit organizations that specialize in assisting with fair housing cases (see below). You can also contact a local legal aid or legal services organization, or national or regional organizations such as Lambda Legal, the National Center for Lesbian Rights, the ACLU, the Transgender Law Center, and others listed on NCTE's website.

Share your story

If you are facing discriminatory treatment, consider sharing your story with NCTE so we can use it in advocacy efforts to change policies, improve education, and reduce future discrimination. If you successfully resolve a housing situation, and especially if any of the material here helped, we want to hear from you as well.

Additional Resources

HUD toll-free fair housing hotline: 1 (800) 669-9777

HUD page on LGBT Housing Discrimination:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination

HUD guide to the Fair Housing Act complaint process: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/complaint-process

HUD fair housing complaint page: http://portal.hud.gov/hudportal/HUD?src=/topics/housing_discrimination

HUD program regulations: <http://portal.hud.gov/hudportal/documents/huddoc?id=12lgbtfinalrule.pdf>

National Fair Housing Alliance: <http://www.nationalfairhousing.org>

Directory of local HUD field offices: <http://portal.hud.gov/hudportal/HUD?src=/localoffices>

Directory of state and local fair housing enforcement agencies: <http://www.civilrights.org/fairhousing/laws/state-agencies.html>

Links to LGBT legal organizations: <http://transequality.org/Resources/links.html#legal>