

## EXAMPLES:

A transgender woman is asked by the owner of her apartment building not to dress in women's clothing in the common areas of the property. This is a violation of the Fair Housing Act (FHA) prohibition of sex discrimination.

A property manager refuses to rent a unit to a prospective tenant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it constitutes illegal discrimination on the basis of sex under the FHA.

A landlord refuses to rent to a female applicant because she wears masculine clothes and engages in other physical expressions that are stereotypically male. This violates the FHA's prohibition of discrimination based on sex.

A married lesbian couple with children are denied tenancy because of their "unusual family and relationship." This violates the Fair Housing Act.

### Know Your Rights

A gender non-conforming person cannot be asked to conform to societal gender roles in order to access housing.

For instance, they cannot be forced to select a gender if there are only two options on an application of "male" or "female."

They can decline to select either but cannot be denied housing or treated differently because they took this action.

### HUD resources:

[https://portal.hud.gov/hudportal/HUD?src=/LGBT\\_resources](https://portal.hud.gov/hudportal/HUD?src=/LGBT_resources)

If your housing rights have been violated because of race, color, national origin, religion, **SEX**, disability or familial status, marital status, **sexual orientation, gender identity**, or veteran/military status, creed, immigration or citizenship status, contact:



NORTHWEST FAIR  
HOUSING ALLIANCE

"Working to Ensure Equal Housing Opportunity for All"

35 West Main Avenue, Suite 250  
Spokane, WA 99201  
Ph 509-325-2665  
1-800-200-FAIR (3247)  
Fax 1-866-376-6308  
[www.nwfairhouse.org](http://www.nwfairhouse.org)



Sex Discrimination  
In Housing

[www.sexdiscriminationinhousing.org](http://www.sexdiscriminationinhousing.org)



The work that provided the basis for this publication was supported in part by funding under a grant with the U.S. Department of Housing and Urban Development, HUD. NWFHA is solely responsible for the accuracy of the statements and interpretations contained in this publication.  
English- 8/2022



IF YOU'RE EVICTED  
BECAUSE YOU'RE  
GENDER NON-CONFORMING,  
IT'S NOT ALWAYS THIS OBVIOUS.

CONTACT YOUR LOCAL FAIR HOUSING AGENCY  
TO HELP YOU READ BETWEEN THE LINES.



NORTHWEST FAIR  
HOUSING ALLIANCE

"Working to Ensure Equal Housing Opportunity for All"

1-800-200-FAIR (3247)  
[www.sexdiscriminationinhousing.org](http://www.sexdiscriminationinhousing.org)

# The FAIR HOUSING ACT

## Protections Against Sex Discrimination

The Fair Housing Act (FHA) was enacted in 1968 to protect people from housing discrimination based on race, color, national origin, and religion. In 1974 congress added protections on the basis of “sex,” and in 1988, disability and familial status (minors in the household) were added.

Over time, the law has been interpreted by Courts and HUD to recognize that discrimination “on the basis of sex” takes many forms, including **sexual harassment** and **gender stereotyping**, and provides **protection for domestic violence survivors**, and people who are **gender non-conforming**, or **transgender**. In 2012 and 2016 HUD issued **Rules protecting gender identity and sexual orientation in HUD programs**. In 2021, HUD announced it would accept **sexual orientation** and **gender identity** complaints under the Fair Housing Act protections for “sex.”

## HUD Rules & Guidance

In 2012 and 2016 HUD issued **Rules protecting gender identity and sexual orientation in HUD programs**.

### *“Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” - 2012*

“Housing providers that receive HUD funding or have loans insured by the Federal Housing Administration (FHA), as well as lenders insured by FHA, are subject to HUD’s Equal Access Rule, which requires equal access to HUD programs without regard to a person’s actual or perceived sexual orientation, gender identity, or marital status.”

#### Equal Access Rule:

<https://portal.hud.gov/hudportal/documents/huddoc?id=12lgbtfinalrule.pdf>



### *“Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs Rule” - 2016*

“**The Gender Identity Rule** ensures that all individuals have equal access to many of the Department’s core shelter programs in accordance with their gender identity. ...**single-sex projects** using funds awarded through the Office of Community Planning and Development (CPD) **are required by the rule to provide all individuals, including transgender individuals and other individuals who do not identify with the sex they were assigned at birth, with access to programs, benefits, services, and accommodations in accordance with their gender identity without being subjected to intrusive questioning or being asked to provide documentation.**”

#### Gender Identity Rule:

<https://www.federalregister.gov/documents/2016/09/21/2016-22589/equal-access-in-accordance-with-an-individuals-gender-identity-in-community-planning-and-development>

### *Executive Order 13988: “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation” - 2021*

In *Bostock v. Clayton County*...the Supreme Court held that Title VII’s prohibition on discrimination “because of . . . sex” covers discrimination on the basis of gender identity and sexual orientation. Under *Bostock’s* reasoning, laws that prohibit sex discrimination...prohibit discrimination on the basis of gender identity or sexual orientation...”

### *“The Worden Memo” - 2022*

Directs HUD to follow Executive Order 13988 and recognize sex discrimination to include sexual orientation and gender identity.

[www.hud.gov/sites/dfiles/PA/documents/ HUD\\_Memo\\_EO13988.pdf](http://www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EO13988.pdf)