



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

August 4, 2014

Ms. Sarah Warbelow
Legal Director
Human Rights Campaign
1640 Rhode Island Avenue, NW
Washington, DC 20410

Dear Ms. Warbelow:

Thank you for your letter of May 9, 2014, concerning the current enforcement of the Equal Access to Housing Rule (Equal Access Rule) and the status of training and outreach to HUD grantees receiving funds administered by your office, including the Emergency Solutions Grants Program (ESG). Specifically, your letter urged HUD to reinforce to recipients of HUD's homeless assistance grants funding that the definition of "family" is applicable to their programs.

HUD agrees with your assertion and on July 23, 2014, issued a Frequently Asked Question related to this topic on its HUD exchange website [at <https://www.onecpd.info/faqs/1529/how-is-the-definition-of-family-that-was-included>] which stated the following:

“How is the definition of ‘family’ that was included in the *Equal Access to Housing in HUD Programs – Regardless of Sexual Orientation or Gender Identity* apply to recipients and subrecipients of ESG and CoC Program funds?

The Equal Access Rule defines family as follows:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or,
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - b. An elderly family;
 - c. A near-elderly family;
 - d. A disabled family;

- e. A displaced family; and
- f. The remaining member of a tenant family.

In general, this definition of “family” applies to both the ESG and CoC Program rules. However, the [McKinney-Vento Act, as amended by the HEARTH Act](#), distinguishes individuals from families. Therefore, paragraph (1) of the definition of family under the Equal Access Rule is considered an individual under the CoC and ESG programs and the definition of family for these programs is defined as follows:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, any group of persons presenting for assistance together with or without children and irrespective of age, relationship, or whether or not a member of the household has a disability. A child who is temporarily away from the home because of placement in foster care is considered a member of the family.

What this means is that any group of people that present together for assistance and identify themselves as a family, regardless of age or relationship or other factors, are considered to be a family and must be served together as such. Further, a recipient or subrecipient receiving funds under the ESG or CoC Programs cannot discriminate against a group of people presenting as a family based on the composition of the family (e.g., adults and children or just adults), the age of any member’s family, the disability status of any members of the family, marital status, actual or perceived sexual orientation, or gender identity.

Here are two examples of how this might apply:

1. **An emergency shelter, transitional housing project, or permanent housing project that serves households with children.** While it is acceptable for a shelter or housing program to limit assistance to households with children, it may not limit assistance to only women with children. Such a shelter must also serve the following family types, should they present, in order to be in compliance with the Equal Access rule:
 - Single male head of household with minor child(ren); and
 - Any household made up of two or more adults, regardless of sexual orientation, marital status, or gender identity, presenting with minor child(ren).

In this example, the emergency shelter or housing program would not be required to serve families composed of only adult members and could deny access to these types of families provided that all adult-only families are treated equally, regardless of sexual orientation, marital status, or gender identity.

2. **A permanent supportive housing project under the CoC Program rule that serves chronically homeless families.** A permanent supportive housing program that serves families must serve all types of families and cannot discriminate against any family based on marital status, actual or perceived sexual orientation of the family members, or gender identities of the family members. Therefore, if two adults present together as a family, the recipient or subrecipient must serve the two adults as a family and may not require proof of marriage and may not limit assistance to couples in a heterosexual relationship.

This policy applies to any recipient and subrecipient of funding under ESG or the CoC Program, including faith-based organizations that accept funds through these programs.

All recipients and subrecipients are encouraged to review their current policies and procedures to ensure that they are compliant with this rule.

HUD is also working on issuing other related guidance and technical assistance materials that we plan to release later in the year.”

I hope the information provided is helpful.

Sincerely,



Ann Marie Oliva
Director (Acting)
Office of Special Needs Assistance Programs