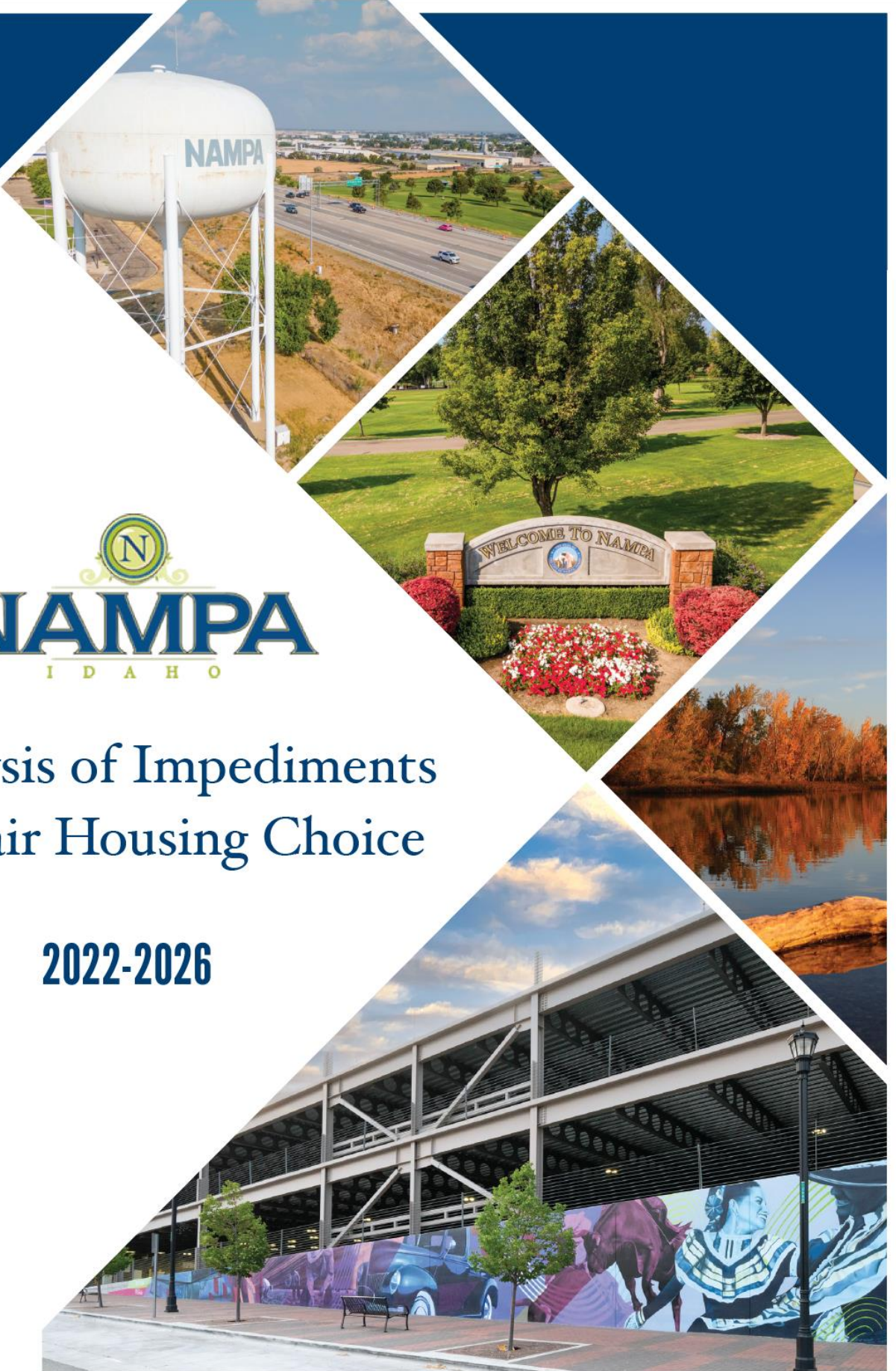




# Analysis of Impediments To Fair Housing Choice

**2022-2026**



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# Introduction and Executive Summary

## **Executive Summary**

City of Nampa receives an annual allocation from the US Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program. In program year 2022, the City's CDBG entitlement grant was **\$699,960**.

Title VIII of the Civil Rights Act of 1968, known as the **Fair Housing Act**, requires HUD and recipients of federal funds from HUD to affirmatively further the policies and purposes of the Fair Housing Act, also known as "affirmatively further fair housing" or "AFFH." The obligation to affirmatively further fair housing requires recipients of HUD funds to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics, which are:

- Race
- Color
- National Origin
- Religion
- Sex (including sexual orientation and gender identity)
- Familial Status
- Disability

Generally, in administering programs and activities relating to housing and community development, the federal government, HUD, and its recipients must:

- Determine who lacks access to opportunity and address any inequity among protected class groups
- Promote integration and reduce segregation
- Transform racially or ethnically concentrated areas of poverty into areas of opportunity

The CDBG program contains a regulatory requirement to affirmatively further fair housing based upon HUD's obligation under Section 808 of the Fair Housing Act.

HUD defines impediments to fair housing choice as:

1. Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin which restrict housing choices or the availability of housing choices.
2. Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices based on race, color, religion, sex, disability, familial status, or national origin.

The CDBG regulation also reflects the CDBG statutory requirement that grantees certify that they will affirmatively further fair housing. HUD's goal is to expand mobility and widen a person's freedom of choice.

As a result, the City of Nampa is required to:

1. Conduct an analysis to identify impediments to fair housing choice within the jurisdiction;
2. Take appropriate actions to overcome the effects of any impediments identified through the analysis;
3. Maintain records reflecting the analysis and activities taken in this regard.

Nampa is dedicated to implementing these objectives and will:

- Analyze and work to eliminate housing discrimination in the jurisdiction;
- Form policy to better support fair and equitable housing;
- Promote fair housing for all persons;
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability, and national origin;
- Promote housing that is structurally accessible to and usable by all persons, particularly persons with disabilities; and
- Foster compliance with the nondiscrimination provision of the Fair Housing Act.

Although the City's obligation arises in connection with the receipt of Federal funding, ***its fair housing obligation is not restricted to the design and operation of HUD-funded programs at the local level.*** The fair housing obligation extends to all housing and housing-related activities in City of Nampa's jurisdictional area, whether publicly or privately funded.

This report provides the City of Nampa with a roadmap to enable the City to address and remedy any challenges that residents may experience that impact their access to fair and affordable housing.

The goal of the City in conducting the Assessment of Impediment to Fair Housing Choice (AI) is not only to identify and provide solutions to barriers and impediments to fair housing but also to **provide a structure for ongoing dialogue, relationships, and greater housing choice throughout the community.** Open communication and strong relationships are necessary to ensure a continuous exchange of ideas, concerns, analysis, and evaluation.

## **Who Conducted**

**Resource Consultants** assisted the City of Nampa with preparing this *Analysis of Impediments to Fair Housing Choice (AI)*.

## **Methodology**

HUD's "Fair Housing Planning Guide, Volume 1" was used to direct the AI. The AI is undertaken to determine what types of impediments to fair housing choice may exist within Nampa. The AI provides detailed information for policymakers, administrative staff, housing providers, housing advocates, and civil rights organizations. The AI includes background information, statistical data, and a review of laws, policies, and complaints. It details community perception, identifies available resources, and lists specific impediments to fair housing choice. Also, the AI provides recommendations to address the impediments identified during the AI process.

The purpose of this AI is to:

- Review of the City's laws, regulations, administrative policies, procedures, and practices concerning fair housing;
- Assess how laws, regulations, policies, and procedures affect the location, availability, and accessibility of housing; and
- Assess public and private sector conditions affecting fair housing choice.

## **Funding**

The City received funding through the HUD Community Development Block Grant (CDBG) program and utilized CDBG administrative funds to pay staff costs to support the development of the Analysis of Impediments to Fair Housing Choice (AI.)

The City of Nampa utilized a general fund appropriation to pay for the consultants to assist with the Consolidated Plan and AI. City Staff time is funded through the CDBG administrative funds.

## **Conclusions**

As a recipient of HUD CDBG Entitlement funds, the City is committed to affirmatively furthering fair housing choices for all residents. Although many issues that affect fair housing choice have been identified, the City is limited in resources and ability to impact all areas. The City of Nampa recognizes the following impediments which may have a direct and substantial impact on fair housing choice and are within the City's ability to impact. Furthermore, the City has identified action steps to address the areas of impediments.

### **IMPEDIMENT #1 – Lack of data on Fair Housing violations**

The Community Needs survey identified that many residents have experiences of varying degrees of potential fair housing violations based upon race, ethnicity, sexual orientation, and gender. In order to fully understand and address fair housing in Nampa, a greater effort needs to be made to gather quantitative data.

**Goal:** Gather data on the level and types of Fair Housing challenges faced by residents.

#### **Action Items**

- Partner with Intermountain Fair Housing Council to have fair housing testing conducted on an annual basis. This should be a separate activity from investigating fair housing complaints.
- Log all fair housing calls received by the City of Nampa. Analyze data annually to see if calls increase or if the nature of the calls changes.
- Request data on an annual basis from 211 on Fair Housing referrals.

### **IMPEDIMENT #2 – Lack Familiarity with Fair Housing Act**

Many landlords are not aware of their responsibilities to provide “reasonable accommodations” as the Fair Housing Act requires. Under the Fair Housing Act, housing providers must make “reasonable accommodations in rules, policies practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.” Many landlords renting homes or small “mom and pop” housing providers are not aware of the full implications of the Fair Housing Act and the “reasonable accommodations” provision.

**Goal:** Increase awareness and compliance with Fair Housing laws.

#### **Action Items:**

- Provide internal training to City employees and make Fair Housing a priority throughout the City departments.
- Provide information on how to file a fair housing complaint at City offices.
- Provide outreach and training to rental agencies and property management companies on fair housing requirements for reasonable accommodations.

### **IMPEDIMENT #3 – Lack of Complaints Out of Sync with Community Feedback**

Community feedback and input from residents in the Community Needs Assessment consistently focused on the challenges faced by people renting housing.

**Goal:** Provide greater outreach and support to residents experiencing fair housing violations.

#### **Action Items**

- Ask CDBG subrecipients and community partners to distribute information to all of their clients on Fair Housing and how to make a fair housing complaint.
- Target outreach to reach protected classes.

### **IMPEDIMENT #4 – Concern with Rental Market and Fair Housing Violations**

Community feedback and input from residents in the Community Needs Assessment consistently focused on the challenges faced by people renting housing. The Community Needs Survey had a high percentage of people reporting potential fair housing violations who are renters.

**Goal:** Provide a more robust way to ensure that the fair housing rights of people renting housing is ensured.

#### **Action Items**

- Provide consistent outreach and education to rental management companies, rental property organizations, and individuals renting housing on what constitutes a fair housing violation.

### **IMPEDIMENT #5 – Limited English Proficiency**

Fair Housing brochures, web pages, and materials are printed mainly in English, limiting Fair Housing information to non-English speaking persons. There is a need to improve language access for people with limited English-speaking proficiency who seek information regarding Fair Housing.

**Goal:** Provide consistent and even Fair Housing services, outreach, and support to all citizens and program applicants.

#### **Action Items**

- Develop a *Language Assistance Plan (LAP)*. Expand Nampa's HUD-funded programs' outreach to include Spanish translation and outreach to Spanish-speaking citizens, Nampa's largest minority group. Under Title VI of the 1964 Civil Rights Act, federal policies set benchmarks by which jurisdictions like Nampa must assure meaningful access to federally funded services.



- Partner with the Idaho Hispanic Chamber to promote the City's HUD-funded programs to the Hispanic community.
- Translate the County's *Community Development Block Grant (CDBG) webpage* and vital HUD-funded program documents in Spanish. Make informational pamphlets and Fair Housing brochures available for LEP individuals.
- Continue to provide citizens with consistent *Spanish translation services*. Utilize a private contractor to test and certify employees so that quality translation services are available to LEP individuals.

## Jurisdictional Background Data

In 1883, the landscape of what was to become Canyon County was changed forever, when the Oregon Short Line Railway (a subsidiary of the Union Pacific) made its way from Granger, Wyoming to Huntington, Oregon. The sagebrush-covered ground was cleared and leveled so tracks could be laid, providing an opportunity for safer travel to the emigrants of the east. Towns sprung up about every 10 to 15 miles along the tracks. Nampa is one such Town.

### **City Name**

It is not known for certain where the name "Nampa" came from, but as the Oregon Short Line was built through Idaho, unusual names were given to some of the stations. Many of these unusual names were believed to be of Indian origin. Annie Laurie Bird, Nampa Historian, concurred with research previously done by F. G. Cottingham of Nampa and others, that the Shoshoni Indian word "namb" means "footprint" or "moccasin". Indians of the region were known to stuff their moccasins during cold weather with sagebrush. This would make their footprints larger than usual size. However, contrary to what many people thought, Nampa, Idaho, is not the only place in the world with this name. For example, there is a Town in Canada named Nampa.

### **Land & Improvement Company**

Alexander and Hannah Duffes, with the encouragement of James McGee, saw the possibilities in the land east of Caldwell, and in 1885, homesteaded on 160 acres with the express purpose of creating a Town. On September 8, 1886, Duffes, McGee and James M. Stewart formed the Nampa Land and Improvement Company, dividing the property into lots. Duffes was a very religious man and dreamed of a Town with no saloon. He refused to sell Town lots to anyone who intended to build a saloon on them. This caused people to refer to the Town of Nampa as "New Jerusalem". It is interesting to note that "The Nampa Progress", Nampa's first newspaper, lists in June 1888, that there were 28 businesses in Nampa, of which three were saloons. Ironically, twenty-one years later, the Duffes home was moved and a brewery built in its place.

### **Boise**

Boise had been bypassed by the Oregon Short Line as they built west, but in 1887, the Idaho Central Railway was built, connecting Boise with the main line of the Oregon Short Line at Nampa. A wood frame structure was brought in from King Hill to serve as a passenger depot in Nampa.

### **Development**

But it was the promise of irrigation that brought many emigrants to homestead in the land surrounding Nampa. During the season of 1890, the Phyllis Canal brought irrigation water to Nampa and surrounding areas, and in 1891, the extension of the Ridenbaugh Canal was completed. With the completion of these canals, an estimated 150,000 to 300,000 acres of prime farmland adjacent to Nampa could be cleared of sagebrush and put under cultivation.

April 17, 1891, a municipal government was formed and the Town of Nampa incorporated. By 1900 the Town of Nampa had a population of about 800.

## **Railroad**

Colonel W. H. Dewey, a promoter and wealthy mining man from Silver City, became interested in Nampa. He built a railroad line, the Boise, Nampa, and Owyhee Railroad, from Nampa to Murphy, Idaho, and also promoted another railroad which was built from Nampa to Emmett and eventually to Lakeport (McCall). With Nampa now a junction for four railroads, an elegant hotel was needed. Colonel Dewey built the Dewey Palace Hotel, which when completed in 1902, was acclaimed as one of the finest in the West.

By 1900, ten passenger trains a day were coming through Nampa. Nampa needed a larger train station. In September 1903, a new passenger station was completed. This same train station is now the Canyon County Historical Society and Museum.

## **Downtown Fire**

Nampa continued to grow and build, but had to rebuild a large part of the downtown after a devastating fire July 3, 1909. The entire downtown block between 12th and 13th Avenues and 1st and Front Streets, was destroyed when a fire cracker exploded in a wood frame cigar store.

## **Harvest Festival**

A successful street fair was organized in 1908, by a group of church ladies. It led to a popular local event called the Harvest Festival. Local farmers would bring their fruits and vegetables, poultry, etc., to sell in downtown Nampa. Music, games, and other activities were enjoyed by families. In 1913, a bronco bucking contest was added

## **Snake River Stampede**

Over the years, the Harvest Festival faded away, and in 1937, the rodeo portion of the festival, known as the Snake River Stampede, broke away and has continued to this day. It is one of the top ten rodeos in the pro rodeo circuits. Water was an essential commodity in this sagebrush desert. In 1909, the Bureau of Reclamation brought a water storage site to Canyon County farmers. The Deer Flat Reservoir would bring water to approximately 2900 farms by 1910. It continues to serve Canyon County farmers today.

Nampans were able to travel the surrounding communities by an electric interurban railroad beginning in 1909 until 1928 when the popularity of travel by car put the interurban out of business.

## **School**

In 1913, the Nazarene church built an elementary school for 13 students. Later, in 1915, the school offered college classes. Eventually the school became known as the Northwest Nazarene College and is now Northwest Nazarene University .

In 1911, work began on a facility, now known as the Idaho State School , for the feeble minded and epileptic. It was opened seven years later in 1918.

## **Depot**

In 1925, the Union Pacific built a new passenger depot on the north side of the tracks. In 1971, passenger service was discontinued by Union Pacific; however, Amtrak took over the nation's passenger service in May of 1971, but was discontinued in Idaho in 1997 due to a lack of funding and use.

### **Railroad Development**

The development of the large Pacific Fruit Express ice plant led to the construction of a major refrigeration shop in 1926. The PFE Shops also built and repaired railroad cars. The Pacific Fruit Express shops refrigeration units in Nampa were closed in 1982, and by 1988, the former PFE buildings were used only for repairs on grain trains.

### **The Later Years**

In 1942, the agricultural industry gained increased importance in Nampa with the construction of a large new sugar factory. The Amalgamated Sugar Factory is still in operation today.

### **Main Street America**

In 1946, Nampa was named "Main Street America". In a campaign known as "Know Your Own Strength" sponsored by Pathfinder Magazine and Nampa Chamber of Commerce, Nampa set out to prove that it had the buying power and retail base to keep sales local. In one year's time, Nampa's main street retailers increased their sales 121%.

### **Shopping Mall**

Treasure Valley got its first indoor shopping mall when Karcher Mall opened in 1965.

### **Businesses & Industries**

Many businesses and industries have come and gone throughout the years, and Nampa has grown steadily from its initial population of 799 in 1900 as the 2020 Census lists Nampa's population as 100,200. Two of the original industries in Nampa continue to serve our community. Nampa is still an important part of the Union Pacific main line operations and will most likely continue to be significant to Nampa and the surrounding area in the future. In 2020, Nampa became the first location in Idaho to host an Amazon fulfillment center. Agriculture has been and remains a key element in the economy of Nampa and Canyon County. The dedication and perseverance of the early settlers of Nampa and Canyon County have given us a rich heritage and paved the way to a brighter tomorrow.

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<sup>1</sup> City of Nampa Website and Canyon County Historical Society

## Demographic Data

Nampa, Idaho has continued to have a population growth over the past decade. The City experience a 30% growth since 2010. Population estimates in this section are compiled from US Census Bureau, QuickFacts for Nampa, Idaho.

<b>Population<sup>1</sup></b>	<b><i>City of Nampa</i></b>	<b><i>Idaho</i></b>	<b><i>United States</i></b>
Population Estimates, July 1 2021, (V2021)	106,186	1,900,923	331,893,745
Population estimates base, April 1, 2020, (V2021)	100,252	1,839,106	331,449,281
Population, percent change - April 1, 2020 (estimates base) to July 1, 2021, (V2021)	5.9%	3.4%	0.1%
Population, Census, April 1, 2020	100,200	1,839,106	331,449,281
Population, Census, April 1, 2010	81,557	1,567,582	308,745,538

<b>Population Age and Sex</b>	<b><i>City of Nampa</i></b>	<b><i>Idaho</i></b>	<b><i>United States</i></b>
Persons under 5 years, percent	6.6%	6.5%	6.0%
Persons under 18 years, percent	25.8%	25.1%	22.3%
Persons 65 years and over, percent	14.6%	16.3%	16.5%
Female persons, percent	49.8%	49.9%	50.8%

<b>Population Race and Ethnicity</b>	<b><i>City of Nampa</i></b>	<b><i>Idaho</i></b>	<b><i>United States</i></b>
White alone, percent	81.2%	93.0%	76.3%
Black or African American alone, percent	0.6%	0.9%	13.4%
American Indian and Alaska Native alone, percent	1.0%	1.7%	1.3%
Asian alone, percent	0.9%	1.6%	5.9%
Native Hawaiian and Other Pacific Islander alone, percent(a)	0.4%	0.2%	0.2%
Two or More Races, percent	5.6%	2.6%	2.8%
Hispanic or Latino, percent(b)	24.8%	12.8%	18.5%
White alone, not Hispanic or Latino, percent	69.6%	81.6%	60.1%

<sup>1</sup> US Census, Quick Facts- Nampa Idaho

## Households and Families<sup>2</sup>

In 2016-2020, there were 34,164 households in Nampa, Idaho. The average household size was 2.78 people.

- Married-couple households made up 50.7% of the households in Nampa while cohabiting couple households made up 6.8% of households.
- Female householders with no spouse or partner present were 23.7% of all households, while 18.8 percent of households were male householders with no spouse or partner present.
- Of people living alone, 11.5 percent were male householders, and 13.4 percent were female householders, for a total of 24.9 percent of all households.
- 34.6% of all households have one or more people under the age of 18; 28.3 percent of all households have one or more people 65 years and over.
- 2,446 grandparents lived with their grandchildren under 18 years old. Of those grandparents, 26.6% were responsible for the basic needs of their grandchildren.

<i>Special Populations<sup>3</sup></i>	<i>City of Nampa</i>	<i>Idaho</i>	<i>United States</i>
Veterans, 2016-2020	6,669	115,549	17,835,456
Foreign born persons, percent, 2016-2020	7.8%	5.9%	13.5%
Language other than English spoken at home, percent of persons age 5 years+, 2016-2020	17.6%	10.8%	21.5%
With a disability, under age 65 years, percent, 2016-2020	11.4%	9.5%	8.7%
Persons without health insurance, under age 65 years, percent	13.8%	12.8%	10.2%

In Nampa, among the civilian noninstitutionalized population in 2016-2020, **15.6% reported a disability**. The likelihood of having a disability varied by age - from 5.8% of people under 18 years old, to 13.8% of people 18 to 64 years old, and to **41.1% of those 65 and over.**<sup>4</sup>

<sup>2</sup> 2016-2020 ACS 5-Year Narrative Profile, US Census

<sup>3</sup> US Census, Quick Facts- Nampa Idaho

<sup>4</sup> 2016-2020 ACS 5-Year Narrative Profile, US Census

### Nativity and Foreign-Born

In 2016-2020, an estimated 92.2% of the people living in Nampa were U.S. natives.

- Approximately **7.8% of Nampa residents in 2016-2020 were foreign-born.**
- 39.9% of foreign-born were naturalized U.S. citizens and an estimated **77.3% entered the country before the year 2010.**
- 47.1% of the Nampa population were living in the state where they were born.

### Language

- Among people at least five years old living in Nampa city, Idaho in 2016-2020, **17.6% spoke a language other than English at home.**
- Spanish was spoken by 15.1 percent of people at least five years old;
- 7.1 percent reported that they did not speak English "very well."

<i>Income Data<sup>5</sup></i>	<i>City of Nampa</i>	<i>Idaho</i>	<i>United States</i>
Median household income (in 2020 dollars), 2016-2020	\$53,205	\$58,915	\$64,994
Per capita income in past 12 months (in 2020 dollars), 2016-2020	\$22,422	\$29,494	\$35,384
Persons in poverty, percent	13.9%	10.1%	11.4%

- The median income of households in Nampa was \$53,205.<sup>6</sup>
- An estimated **5.0% of households had income below \$10,000 a year** and 1.2% had income over \$200,000 or more.
- **Median earnings for full-time year-round workers was \$37,077.**
- Male full-time year-round workers had median earnings of \$41,839.
- Female full-time year-round workers had median earnings of \$32,552.

<sup>5</sup> US Census, Quick Facts- Nampa Idaho

<sup>6</sup> 2016-2020 ACS 5-Year Narrative Profile, US Census

### Poverty and Participation in Government Programs<sup>7</sup>

- In 2016-2020, 13.9% of people were in poverty. An estimated **14.2% of children under 18 were below the poverty level**, compared with 9.7% of people 65 years old and over. An estimated 14.7% of people 18 to 64 years were below the poverty level.
- In 2016-2020, 14.0% of households received SNAP (the Supplemental Nutrition Assistance Program).
- **51.0% of households that received SNAP had children under 18**
- 29.1% of households that received SNAP had one or more people 60 years and over.
- 28.6% of all households receiving SNAP were families with a female householder and no spouse present.
- 37.3% of households receiving SNAP had two or more workers in the past 12 months.

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<sup>7</sup> 2016-2020 ACS 5-Year Narrative Profile, US Census



# Employment Data

## Workforce Development and Education

Educational attainment measures can reflect the quantity (e.g., average years of schooling) or educational attainment quality (e.g., average SAT score). Educational attainment likely contributes to firm and regional innovation capacity by providing general and specific knowledge and skills that facilitate the creation, diffusion, and adoption of new technologies and other innovations.

Working-age adults need a minimum of a high school diploma to compete in today’s workforce. Without it, they face greater employment challenges and economic hardship than those with a high school diploma or higher. Some argue that lacking a high school diploma bars individuals from entering the middle class. Those without a high school diploma are further limited to strictly low-skill jobs. Studies also reveal that high school dropouts are more likely to engage in criminal activity, use drugs and tobacco, and report poor mental health. The consequences of dropping out of high school do not stop at the individual. Communities and nations suffer from fewer skilled and productive workers to fuel economic activity and innovation. Higher dropout rates correspond to more crime, as well as public health and other social concerns. Government resources may need to be redirected from economic activities to support a growing need for government assistance when unemployment levels are high. *"Driving Regional Innovation: The Innovation Index 2.0"*

<i>Employment Data</i> <sup>8</sup>	<i>City of Nampa</i>	<i>Idaho</i>	<i>United States</i>
<b>High school graduate or higher</b> , percent of persons age 25 years+, 2016-2020	87.2%	91.3%	88.5%
<b>Bachelor's degree or higher</b> , percent of persons age 25 years+, 2016-2020	19.9%	28.7%	32.9%
<b>In civilian labor force</b> , total, percent of population age 16 years+, 2016-2020	63.5%	62.8%	63.0%
<b>In civilian labor force</b> , female, percent of population age 16 years+, 2016-2020	57.0%	57.0%	58.4%

<sup>8</sup> US Census, Quick Facts- Nampa Idaho

# Evaluation of City of Nampa's Current Fair Housing Legal Status

It is illegal to discriminate in the sale or rental of housing, including against individuals seeking a mortgage or housing assistance, or other housing-related activities. The Fair Housing Act prohibits discrimination because of race, color, national origin, religion, sex, familial status, and disability. A variety of other federal civil rights laws, including Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act, prohibit discrimination in housing and community development programs and activities, particularly those assisted with HUD funding.

These civil rights laws include obligations such as taking reasonable steps to ensure meaningful access to their programs and activities for persons with limited English proficiency (LEP) and taking appropriate steps to ensure effective communication with individuals with disabilities through the provision of appropriate auxiliary aids and services. Various federal fair housing and civil rights laws require HUD and its program participants to affirmatively further the purposes of the Fair Housing Act.

Local governments, Public Housing Authorities (PHA), States, and Insular Areas must be involved in fair housing planning to ensure follow through on the obligation to affirmatively further the policies of the Fair Housing Act. These policies include ensuring that persons are not denied equal opportunities in connection with housing because of their race, color, national origin, religion, disability, sex, or familial status. They also include the policy of overcoming patterns of segregation and the denial of access to opportunity that are part of this nation's history. To be effective, fair housing planning must tackle tough issues. Fair housing planning affects the community as a whole, so all people in the community must have the opportunity to be at the table and participate in making those decisions.

## **Fair housing choice is not only about combating discrimination.**

Fair housing choice involves individuals and families having the information, opportunity, and options to live where they choose without unlawful discrimination and other barriers related to race, color, religion, sex, familial status, national origin, or disability, and that their choices realistically include housing options in integrated areas with access to opportunity.

Fair housing encompasses;

1. **Actual choice**, which means the existence of realistic housing options;
2. **Protected choice**, which means housing that can be accessed without discrimination; and
3. **Enabled choice**, which means realistic access to sufficient information regarding options so that any choice is informed.

The Fair Housing Act covers most housing. In very limited circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family houses sold or rented by the owner without the use of an agent, and housing operated by religious organizations and private clubs that limit occupancy to members.

For persons with disabilities, fair housing choice and access to opportunity include: access to accessible housing; and housing in the most integrated setting appropriate to an individual's need.

## **HUD – Office of Fair Housing and Equal Opportunity (FHEO)**

HUD's Office of Fair Housing and Equal Opportunity (FHEO) works to eliminate housing discrimination, promote economic opportunity, and achieve diverse, inclusive communities. FHEO enforces fair housing laws. One of its roles is to investigate complaints of housing discrimination.

The laws implemented and enforced by FHEO include:

- The Fair Housing Act
- Title VI of the Civil Rights Act of 1964
- Section 109 of the Housing and Community Development Act of 1974
- Section 504 of the Rehabilitation Act of 1973
- Titles II and III of the Americans with Disabilities Act of 1990
- The Architectural Barriers Act of 1968
- The Age Discrimination Act of 1975
- Title IX of the Education Amendments Act of 1972
- Section 3 of the Housing and Urban Development Act of 1968

FHEO investigates complaints, which may be one or both of the following types:

1. Discrimination under the Fair Housing Act (including housing that is privately owned and operated)
2. Discrimination and other civil rights violations in housing and community development programs, including those funded by HUD

## A Brief Overview of the Fair Housing Act

The Fair Housing Act protects specified groups from discrimination in obtaining and maintaining housing. The act applies to the rental or sale of dwelling units with exceptions for single-family homes (as long as the owner does not own more than three single-family homes) and dwellings with up to four units where one is owner-occupied.

Discrimination based on the following characteristics is prohibited under the act. The terms race, color, and national origin are not defined in the Fair Housing Act statute.

- **Race**
- **Color**
- **Religion**—The statute provides an exemption for religious organizations to rent or sell a property they own or operate to members of the same religion (as long as membership is not restricted based on race, color, or national origin).
- **National origin**
- **Sex**—In February 2021, HUD released a memo stating that it would begin accepting discrimination complaints based on sexual orientation or gender identity and that FHEO would conduct “all other activities involving the application, interpretation, and enforcement of the Fair Housing Act’s prohibition on sex discrimination to include discrimination because of sexual orientation and gender identity.” HUD issued this guidance in response to the 2020 decision, *Bostock v. Clayton County*. The Supreme Court held that Title VII of the Civil Rights Act of 1964 barred employers from firing an individual for being gay or transgender. HUD’s guidance explains that “the Fair Housing Act’s sex discrimination provisions are comparable to those of Title VII and that they likewise prohibit discrimination because of sexual orientation and gender identity.” Further, courts have found discrimination based on sex to include sexual harassment, and HUD regulations outline quid pro quo and hostile environment sexual harassment that violates the Fair Housing Act. Discrimination based on nonconformity with gender stereotypes may also be unlawful sex-based discrimination under the Fair Housing Act.
- **Familial status**—The statute defines familial status as parents or others having custody of one or more children under age 18. Familial status discrimination does not apply to housing dedicated to older persons in accordance with federal guidelines.
- **Disability**—The statute defines disability as having a physical or mental impairment that substantially limits one or more major life activities, having a record of such impairment, or being regarded as having such an impairment. Regulations provide lists of conditions that may constitute physical or mental impairments. Major life activities means “functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.”

The Fair Housing Act protects individuals in the covered classes from discrimination in various activities involving housing. Some of the specific types of activities that are prohibited include the following:

- Refusing to rent or sell, refusing to negotiate for a rental or sale, or otherwise making a dwelling unavailable based on protected class.
- Discriminating in the terms, conditions, or privileges of sale or rental or in the services and facilities provided in connection with a sale or rental.
- Making, printing, or publishing notices, statements, or advertisements that indicate a preference, limitation, or discrimination in connection with a sale or rental based on a protected class.
- Representing that a dwelling is not available for inspection, sale, or rental based on a protected class.
- Inducing, for-profit, someone to sell or rent based on the representation that members of a protected class are moving to the neighborhood (sometimes referred to as blockbusting).
- Refusing to allow reasonable modifications or reasonable accommodations for persons with a disability. Reasonable modifications involve physical changes to the property, while reasonable accommodations involve changes in rules, policies, practices, or services to accommodate disabilities.
- Discriminating in “residential real estate related transactions,” including the provision of loans and selling, brokering, or appraising property.
- Retaliating (i.e., coercing, intimidating, threatening, or interfering) against anyone attempting to exercise rights under the Fair Housing Act. <sup>2</sup>

### **In the Sale and Rental of Housing:**

It is illegal discrimination to take any of the following actions because of race, color, religion, sex, disability, familial status, or national origin:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Otherwise make housing unavailable
- Set different terms, conditions, or privileges for sale or rental of a dwelling
- Provide a person different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- Make, print, or publish any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination
- Impose different sales prices or rental charges for the sale or rental of a dwelling

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<sup>2</sup> “The Fair Housing Act: HUD Oversight, Programs, and Activities” Congressional Research Service, April 7, 2021

- Use different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analyses, sale or rental approval procedures, or other requirements
- Evict a tenant or a tenant's guest
- Harass a person
- Fail or delay performance of maintenance or repairs
- Limit privileges, services, or facilities of a dwelling
- Discourage the purchase or rental of a dwelling
- Assign a person to a particular building or neighborhood or section of a building or neighborhood
- For profit, persuade, or try to persuade, homeowners to sell their homes by suggesting that people of a particular protected characteristic are about to move into the neighborhood (blockbusting)
- Refuse to provide or discriminate in the terms or conditions of homeowners' insurance because of the race, color, religion, sex, disability, familial status, or national origin of the owner and/or occupants of a dwelling
- Deny access to or membership in any multiple listing service or real estate brokers' organization

## **Civil Rights Obligations of Public Entities and Recipients of Federal Financial Assistance**

Federal laws prohibit discrimination in housing and community development programs and activities because of race, color, religion, sex, national origin, familial status, and disability. These obligations extend to recipients of HUD financial assistance, including subrecipients, as well as the operations of state and local governments and their agencies, and certain private organizations operating housing and community development services, programs, or activities.

For example, federal laws prohibit discrimination, including the denial of participation in and benefit of the following examples of programs and activities: homelessness, transitional housing, permanent supportive housing, the operations of social service organizations, public housing, voucher programs, other affordable housing programs, community development funded facilities, etc. Recipients and other covered entities must also take affirmative steps within such programs and activities to provide equal housing opportunities.

### **Affirmatively Furthering Fair Housing**

Title VIII of the Civil Rights Act of 1968, known as the **Fair Housing Act**, requires HUD and recipients of federal funds from HUD to affirmatively further the policies and purposes of the Fair Housing Act, also known as “affirmatively further fair housing” or “AFFH.” The obligation to affirmatively further fair housing requires recipients of HUD funds to take meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics, which are:

- Race
- Color
- National origin
- Religion
- Sex (including sexual orientation and gender identity)
- Familial status
- Disability

Generally, in administering programs and activities relating to housing and community development, the federal government, HUD, and its recipients must:

- Determine who lacks access to opportunity and address any inequity among protected class groups
- Promote integration and reduce segregation
- Transform racially or ethnically concentrated areas of poverty into areas of opportunity

For much of the late 19<sup>th</sup> and early 20<sup>th</sup> century, government at all levels throughout the United States, along with private developers and mortgage lending institutions, played an active role in creating segregated living patterns and inequalities of opportunity. The federal government

used the power of the military to remove Native Americans from their homelands, restricted federally insured mortgages on the basis of race, and used "slum clearance" and "urban renewal" programs to demolish neighborhoods for infrastructure projects that largely benefitted white Americans at a significant cost to and perpetuated the segregation of Black communities, Indigenous communities, and other communities of color.

Private housing developers also used racially restrictive covenants that perpetuated segregation and restricted access to homeownership and other housing opportunities for communities of color, among many other forms of discrimination.

In 1967, following the "Long, Hot Summer of 1967," which consisted of over 150 race-related riots, President Lyndon B. Johnson established the National Advisory Commission on Civil Disorders, also known as the Kerner Commission. The Commission was tasked with investigating the causes of the riots that occurred in cities like Los Angeles, Detroit, Chicago, Newark, Milwaukee, and New York City. The final report of the Commission, issued in 1968, pointed to a lack of economic opportunity, failed government programs, police brutality, and racism, among other causes. The Commission's Report is famously known for its declaration that "Our nation is moving toward two societies, one black, one white—separate and unequal."

In 1968, when Congress enacted the Fair Housing Act, one of the Act's co-sponsors, Senator Walter F. Mondale, explained that "...the proposed law was designed to replace the ghettos by 'truly integrated and balanced living patterns.'" Congress intended that HUD do more than simply not discriminate itself and intended for HUD to use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases. As such, since 1968, the federal government recognized its role in creating segregated living patterns that continue to have negative impacts on health, education, and the economy and its responsibility to undo the effects of policies, practices, and procedures that result in a lack of equity.

As recently as 2015, the U.S. Supreme Court reaffirmed one purpose of the Fair Housing Act when it explained that "much progress remains to be made in our Nation's continuing struggle against racial isolation...The Court acknowledges the Fair Housing Act's continuing role in Moving the Nation toward a more integrated society."

HUD and the federal government continue to work toward achieving the integrated and more balanced living patterns envisioned by the Fair Housing Act in 1968. In 2021, the White House issued a Memorandum to the Secretary of Housing and Urban Development, which declared that the affirmatively furthering fair housing provision in the Fair Housing Act, "...is not only a mandate to refrain from discrimination but a mandate to take actions that undo historic patterns of segregation and other types of discrimination and that afford access to long-denied opportunities." The White House, in 2021, also issued a number of Executive Orders that implicate HUD's responsibility for implementing the AFFH mandate, including Executive Order 13895, "Advancing Racial Equity for Underserved Communities Through the Federal Government" and Executive Order 13988, "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation."

For decades, HUD has required recipients of federal financial assistance such as States, local



governments, insular areas, and PHAs (program participants) to engage in fair housing planning.

Such planning has previously consisted of the Analysis of Impediments to Fair Housing Choice and the Assessment of Fair Housing and was done in connection with other types of planning required by program requirements, such as the Consolidated Plan, Annual Action Plan, and PHA plan.

HUD implements the AFFH mandate in other ways, such as through its collection of certifications from grantees, provisions regarding program design in its notices of funding opportunity (NOFOs), affirmative fair housing marketing and advertising requirements, and enforcement of site and neighborhood standards.

HUD's 2021 Interim Final Rule (IFR), **"Restoring Affirmatively Furthering Fair Housing Definitions and Certifications,"** requires program participants to submit certifications that they will affirmatively further fair housing in connection with their consolidated plans, annual action plans, and PHA plans. In order to support these certifications, the IFR creates a voluntary fair housing planning process for which HUD will provide technical assistance and support.

The IFR also rescinds the 2020 Preserving Communities and Neighborhood Choice rule, which was causing funding recipients to certify "compliance" with a regulatory definition that is not a reasonable construction of the Fair Housing Act's mandate to affirmatively further fair housing. HUD is putting itself and its program participants back in a position to take meaningful steps towards improved fair housing outcomes.

The IFR does not require program participants to undertake any specific type of fair housing planning to support their certifications, and commits HUD to providing technical assistance to those that wish to undertake Assessments of Fair Housing (AFHs), Analyses of Impediments to Fair Housing Choice (AIs), or other forms of fair housing planning. HUD is providing resources to assist program participants.

## **Disability**

Federal nondiscrimination laws provide housing protections for individuals with disabilities. These protections apply in most private housing, state and local government housing, public housing, and other federally-assisted housing programs and activities. The Fair Housing Act prohibits discrimination in housing and housing-related transactions because of disability.

Federal nondiscrimination laws define a person with a disability to include any;

1. Individual with a physical or mental impairment that substantially limits one or more major life activities;
2. Individual with a record of such impairment; or
3. Individual who is regarded as having such an impairment.

In general, a physical or mental impairment includes, but is not limited to, examples of conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human

Immunodeficiency Virus (HIV), developmental disabilities, mental illness, drug addiction, and alcoholism.

Some impairments are readily observable, while others may be invisible. Observable impairments may include, but are not limited to, blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (e.g., stroke, Parkinson's disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.

The term "major life activities" includes those activities that are important to daily life. Major life activities include, for example, walking, speaking, hearing, seeing, breathing, working, learning, performing manual tasks, and caring for oneself. There are other major life activities that are not on this list. Major life activities also include the operation of major bodily activities, such as the functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive systems.

**Section 504 of the Rehabilitation Act** prohibits discrimination on the basis of disability in any program or activity receiving federal financial assistance. Titles II and III of the Americans with Disabilities Act prohibit discrimination on the basis of disability in all programs, services, and activities of public entities and by private entities that own, operate, or lease places of public accommodation.

Section 504 of the Rehabilitation Act provides that no qualified individual with disabilities should, solely by reason of their disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 504 covers all programs and activities of recipients of HUD financial assistance, including, for example:

- Outreach and public contact, including contact with program applicants and participants
- Eligibility criteria
- Application process
- Admission to the program
- Tenancy, including eviction
- Service delivery
- Physical accessibility of facilities
- Employment policies and practice

### ***The Americans with Disabilities Act (ADA)***

The ADA is a comprehensive civil rights law for persons with disabilities. Title II of the ADA prohibits discrimination on the basis of disability in all programs, services, and activities provided or made available by public entities (state and local governments and special purpose districts). This includes housing when provided or made available by a public entity regardless of whether the entity receives federal financial assistance. For example, housing covered by Title II of the ADA includes housing operated by public housing agencies that meet the ADA's definition of "public entity," and housing operated by States or units of local government, such as housing on a State university campus.

Title III of the ADA prohibits private entities that own, lease (to and from), or operate places of public accommodation from discriminating on the basis of disability and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. Public accommodations at housing developments include public areas open to the general public, such as a rental office. Public accommodations would also include, for example, shelters and social service establishments.

### **Sexual Harassment**

Sexual harassment in housing is a form of sex discrimination prohibited by the Fair Housing Act. Sex discrimination is also prohibited by other federal laws, such as Section 109 of the Housing and Community Development Act of 1974 and Title IX of Education Amendments of 1972. There are two main types of sexual harassment: (1) quid pro quo sexual harassment; and (2) hostile environment sexual harassment.

#### ***Quid Pro Quo***

Quid pro quo harassment occurs when a housing provider requires a person to submit to an unwelcome request to engage in sexual conduct as a condition of obtaining or maintaining housing or housing-related services.

#### ***Hostile Environment***

Hostile environment harassment occurs when a housing provider subjects a person to severe or pervasive unwelcome sexual conduct that interferes with the sale, rental, availability, or terms, conditions, or privileges of housing or housing-related services, including financing.

## **Reasonable Accommodations and Modifications**

### **Rights and Obligations Under Federal Law**

Various federal laws require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities. Federal nondiscrimination laws that protect against disability discrimination cover not only tenants and home seekers with disabilities, but also buyers and renters without disabilities who live or are associated with individuals with disabilities. These laws also prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modifications.

### **The Fair Housing Act**

Under the Fair Housing Act a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service. The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.

In addition, the Fair Housing Act prohibits a housing provider from refusing to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

### **Section 504**

Unlike the Fair Housing Act, Section 504 does not distinguish between reasonable accommodations and reasonable modifications. Instead, both are captured by the term “reasonable accommodations”. Under Section 504, the requirement to make reasonable accommodations applies to any changes that may be necessary to provide equal opportunity to participate in any federally-assisted program or activity. This includes a change, adaptation or modification to a policy, program, service, facility, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, live in housing, or perform a job.

Reasonable accommodations also include any structural changes that may be necessary. Reasonable accommodations may include changes which may be necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces, or participate in the federally-assisted program or activity. Under Section 504, reasonable accommodations must be provided and paid for by the housing provider unless providing them would be an undue financial and administrative burden or a fundamental alteration of the program. In such cases, the provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program. In addition to the statutory requirement to make reasonable accommodations under Section

504, HUD's Section 504 regulation provides for making "housing adjustments" at 24 C.F.R. § 8.33.

## **Americans with Disabilities Act (ADA)**

Similar to and based upon the Section 504 reasonable accommodation requirement, Titles II and III of the ADA require public entities and public accommodations to make reasonable modifications to policies, practices, or procedures to avoid discrimination. This obligation applies unless the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity (Title II), or the public accommodation can demonstrate that making the modifications would fundamentally alter the nature of the goods, services, facilities, privileges, advantages, or accommodations (Title III).

### **Reasonable Accommodations**

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations. Please note that the ADA often refers to these types of accommodations as "modifications."

Any change in the way things are customarily done that enables a person with disabilities to enjoy housing opportunities or to meet program requirements is a reasonable accommodation. In other words, reasonable accommodations eliminate barriers that prevent persons with disabilities from fully participating in housing opportunities, including both private housing and in federally-assisted programs or activities. Housing providers may not require persons with disabilities to pay extra fees or deposits or place any other special conditions or requirements as a condition of receiving a reasonable accommodation.

Since rules, policies, practices, and services may have a different effect on persons with disabilities than on other persons, treating persons with disabilities exactly the same as others will sometimes deny persons with disabilities an equal opportunity to enjoy a dwelling or participate in the program. Not all persons with disabilities will have a need to request a reasonable accommodation. However, all persons with disabilities have a right to request or be provided a reasonable accommodation at any time.

Under Section 504 and the ADA, public housing agencies, other federally-assisted housing providers, and state or local government entities are required to provide and pay for structural modifications as reasonable accommodations/modifications.

### **Reasonable Modifications**

Under the Fair Housing Act, a reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes

to interiors and exteriors of dwellings and to common and public use areas. Examples include the installation of a ramp into a building, lowering the entry threshold of a unit, or the installation of grab bars in a bathroom. Under the Fair Housing Act, prohibited discrimination includes a refusal to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

Under Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program. If an undue burden or fundamental alteration exists, the recipient is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular recipient and/or constitute a fundamental alteration of the program.

Examples include:

- Assigning an accessible parking space for a person with a mobility impairment
- Permitting a tenant to transfer to a ground-floor unit
- Adjusting a rent payment schedule to accommodate when an individual receives income assistance
- Adding a grab bar to a tenant's bathroom
- Permitting an applicant to submit a housing application via a different means
- Permitting an assistance animal in a "no pets" building for a person who is deaf, blind, has seizures, or has a mental disability.

The requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending, including property owners, housing managers, homeowners and condominium associations, lenders, real estate agents, and brokerage services. This also applies to state and local governments, including in the context of exclusionary zoning or other land-use decisions.

A provider is entitled to obtain information that is necessary to evaluate if a requested reasonable accommodation or modification may be necessary because of a disability. If a person's disability is obvious, readily apparent, or otherwise known to the provider, and if the need for the requested accommodation or modification is also readily apparent or known, then the provider may not request any additional information. If the disability and/or the disability-related need for the requested accommodation or modification is not known or obvious, the provider may request only information that is necessary to evaluate the disability and/or disability-related need for the accommodation. This information may be from the requesting individual, medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability. In most cases, an individual's medical records or detailed information about the nature of a person's disability

is not necessary for this inquiry and may be inappropriate.

A housing provider can deny a request for a reasonable accommodation or modification if the request was not made by or on behalf of a person with a disability or if there is no disability-related need for the accommodation or modification. In addition, a request for a reasonable accommodation or modification may be denied if providing the accommodation or modification would impose an undue financial and administrative burden on the housing provider or it would fundamentally alter the nature of the housing provider's program. The determination of undue financial and administrative burden must be made on a case-by-case basis involving various factors. If an undue burden or fundamental alteration exists, the housing provider is still required to provide any other reasonable accommodation up to the point that would not result in an undue financial and administrative burden on the particular housing provider and/or constitute a fundamental alteration of the program.

When a housing provider denies a requested accommodation or modification, the provider should discuss with the requester whether there is an alternative accommodation or modification that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. As part of this interactive process, the housing provider should recognize that the individual requesting the accommodation or modification is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective to meet a disability-related need. These discussions often result in an effective accommodation or modification for the requester that does not pose an undue financial and administrative burden for the provider.

A provider has an obligation to provide prompt responses to reasonable accommodation requests. An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation. A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation.

## Limited English Proficiency

For persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand English. For purposes of Title VI and the Limited English Proficient (LEP) Guidance, persons may be entitled to language assistance with respect to a particular service, benefit, or encounter.

Title VI of the Civil Rights Act of 1964 is the federal law that protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who are LEP can effectively participate in, or benefit from, federally assisted programs may violate Title VI's prohibition against national origin discrimination.

EO 13166, signed on August 11, 2000, directs all federal agencies, including the Department of Housing and Urban Development (HUD), to work to ensure that programs receiving federal financial assistance provide meaningful access to LEP persons. Pursuant to EO 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the Department of Justice (DOJ) LEP Guidance apply to the programs and activities of federal agencies, including HUD. In addition, EO 13166 requires federal agencies to issue LEP Guidance to assist their federally assisted recipients in providing such meaningful access to their programs. This Guidance must be consistent with the DOJ Guidance. Each federal agency is required to specifically tailor the general standards established in DOJ's Guidance to its federally assisted recipients. On December 19, 2003, HUD published such proposed Guidance.

Federally assisted recipients are required to make reasonable efforts to provide language assistance to ensure meaningful access for LEP persons to the recipient's programs and activities.

To do this, the recipient should:

- (1) conduct the four-factor analysis;
- (2) develop a Language Access Plan (LAP); and
- (3) provide appropriate language assistance.

The actions that the recipient may be expected to take to meet its LEP obligations depend upon the results of the four-factor analysis including the services the recipient offers, the community the recipient serves, the resources the recipient possesses, and the costs of various language service options. All organizations would ensure nondiscrimination by taking reasonable steps to ensure meaningful access for persons who are LEP.

HUD recognizes that some projects' budgets and resources are constrained by contracts and agreements with HUD. These constraints may impose a material burden upon the projects. Where a HUD recipient can demonstrate such a material burden, HUD views this as a critical item in the consideration of costs in the four-factor analysis. However, **refusing to serve LEP persons or not adequately serving or delaying services to LEP persons would violate Title VI.** The agency may, for example, have a contract with another organization to supply an



interpreter when needed; use a telephone service line interpreter; or, if it would not impose an undue burden, or delay or deny meaningful access to the client, the agency may seek the assistance of another agency in the same community with bilingual staff to help provide oral interpretation service.

If a person believes that a HUD federally assisted recipient is not taking reasonable steps to ensure meaningful access to LEP persons, that individual may file a complaint with HUD's local Office of Fair Housing and Equal Opportunity (FHEO).

### **Actions for a Violation**

#### **Housing Discrimination Complaints filed with State and Federal Organizations**

Formal complaints related to housing discrimination in the State of Idaho are generally filed with HUD's Office of Fair Housing and Equal Opportunity (FHEO), the Housing and Civil Enforcement Section of the United States Department of Justice.

A party who believes they have been a victim of illegal discrimination, based on their membership in one of the federally protected classes, during a housing related transaction, may file a complaint with the Department of Housing and Urban Development (HUD). When a complaint is filed, HUD will investigate the complaint and try to conciliate the matter with both parties. FHEO administers and enforces federal laws and establishes policies that ensure all Americans have equal access to the housing of their choice.

In addition to general fair housing discrimination complaints, HUD accepts specific complaints that violate Section 504 of the Rehabilitation Act of 1973, prohibiting programs or organizations that receive federal funds from discriminating against persons with disabilities. In relation to housing, this means that any housing program that accepts federal funds must promote equal access of units, regardless of disability status. Both mental and physical disability are included in Section 504.

An example of a Section 504 violation is a public housing manager who demands a higher housing deposit to a person in a wheelchair because of the anticipated damage that a wheelchair may cause. This violates Section 504 in that a person cannot be held to different standards or liabilities due to disability.

Complaints that are in violation of Section 504 are filed and processed in the same manner as general fair housing complaints.

#### **HUD – Multifamily Housing Complaint Line**

The Multifamily Housing Complaint Line is a service provided by HUD's Multifamily Housing Clearinghouse (MFHC) that enables residents of HUD-insured and -assisted properties and other community members to report complaints with a property's management concerning matters such as poor maintenance, dangers to health and safety, mismanagement, and fraud. It can be accessed by dialing 1-800-MULTI-70 (1-800-685-8470).

Callers to this line can speak to MFHC information specialists in English and Spanish, who will help them resolve their problem. MFHC staff explain how to report problems to building management more effectively, answer questions about residents' rights, and refer callers to local Public Housing Agencies and other organizations, if needed. If a complaint is serious enough to bring to HUD's attention, MFHC information specialists write up a report on the problem and fax or email it to the appropriate HUD Field Office for action.

The Multifamily Housing Complaint Line supports HUD's enforcement efforts by empowering tenants and community residents to act as HUD's eyes and ears to ensure safe, decent, and sanitary housing. Complaints of housing discrimination are handled by the Office of Fair Housing and Equal Opportunity.

## **Fair Housing Assistance Program (FHAP)**

Through the Fair Housing Assistance Program (FHAP), HUD funds state and local agencies that administer fair housing laws that HUD has determined to be substantially equivalent to the Fair Housing Act.

The Fair Housing Act contemplates that, across the country, state and local governments will enact and enforce their own statutes and ordinances that are substantially equivalent to the Fair Housing Act. HUD provides FHAP funding annually on a noncompetitive basis to state and local agencies that administer fair housing laws that provide rights and remedies that are substantially equivalent to those provided by the Fair Housing Act.

A state or local agency may be certified as substantially equivalent after it applies for certification. HUD then determines that the agency administers a law that provides substantive rights, procedures, remedies, and judicial review provisions that are substantially equivalent to the Fair Housing Act. Typically, once certified, HUD will refer complaints of housing discrimination that it receives to the state or local agency for investigation.

FHAP is an intergovernmental enforcement partnership between HUD and the state or local agencies. As in any partnership, both parties must contribute to the success of the program.

While HUD provides significant resources to Substantially Equivalent Agencies in the form of training, technical assistance, and funding. The agencies must demonstrate a commitment to thorough and professional complaint processing. This includes all phases of complaint processing, from accurate identification of issues at intake, through complete and sound investigations, to following through on administrative or judicial enforcement to ensure that victims of unlawful housing discrimination obtain full remedies and the public interest is served. The agencies should also work to develop relationships with public, private, and non-profit organizations in a grassroots approach to making fair and open housing a reality.

The Fair Housing Act covers most housing. In very limited circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family houses sold or rented by the owner without the use of an agent, and housing operated by religious organizations and private clubs that limit occupancy to members.

***Idaho is one of only a handful of states that do not currently have a FHAP.***

## **Fair Housing Initiatives Program (FHIP)**

Fair housing organizations and other non-profits that receive funding through the Fair Housing Initiatives Program (FHIP) assist people who believe they have been victims of housing discrimination.

FHIP organizations partner with HUD to help people identify government agencies that handle complaints of housing discrimination. They also conduct preliminary claims investigations, including sending "testers" to properties suspected of practicing housing discrimination.

In addition to funding organizations that provide direct assistance to individuals who feel they have been discriminated against while attempting to purchase or rent housing, FHIP also has initiatives that promote fair housing laws and equal housing opportunity awareness.

The U.S. Department of Housing and Urban Development (HUD) provides Fair Housing Assistance Program (FHAP) funding annually on a noncompetitive basis to state and local agencies that enforce fair housing laws that HUD determined to be substantially equivalent to the Fair Housing Act. A state or local agency may be certified as substantially equivalent after it applies for certification and HUD determines that the agency administers a law that provides substantive rights, procedures, remedies and judicial review provisions that are substantially equivalent to the Fair Housing Act. Typically, once certified, HUD will refer complaints of housing discrimination that it receives to the state or local agency for investigation. There are currently no FHAP providers in Idaho.

**Both Idaho Legal Aid and Intermountain Fair Housing Council provide resources and support for fair housing complaints for residents in Nampa.**

### **Intermountain Fair Housing Council**

4696 W. Overland Rd., Suite 140

Boise, Idaho 83705

Phone: (208) 383-0695

Email: [contact@ifhcidaho.org](mailto:contact@ifhcidaho.org)

The Intermountain Fair Housing Council (IFHC), is a nonprofit organization whose mission is to ensure open and inclusive housing for all persons without regard to race, color, sex, religion, national origin, familial status, sexual orientation, gender identity, a source of income, or disability. The IFHC attempts to eradicate discrimination through, education on the fair housing laws, housing information and referral, housing counseling, and assistance with mediating and or filing fair housing complaints, among other things. The IFHC also provides education and outreach on fair housing laws and practices to housing providers and others.

Currently, most of IFHC's efforts for testing of fair housing violations is directed toward investigating complaints. **There is no random fair housing testing currently occurring in Nampa.**

## **The IFHC:**

1. Provides information and education services to housing consumers, housing providers, community organizations, and lending institutions.
2. Monitors fair housing compliance of housing providers, lending institutions, and local and state governments.
3. Engages in enforcement activities which include investigation, testing, and complaint filing with State or Federal authorities.
4. Negotiates fair housing settlements by mediation, conciliation, or litigation, if necessary.

## **Idaho Legal Aid Services, Inc.**

212 12<sup>th</sup> Avenue Road

Nampa, ID 83204

Phone: (208) 746-7541

Idaho Legal Aid's mission is to provide quality civil legal services to low-income and vulnerable Idahoans.

Every year Idaho Legal Aid Services helps thousands of Idahoans with critical legal problems such as escaping domestic violence and sexual assault, protecting abused and neglected children, preserving housing, helping vulnerable seniors and stopping discrimination. The Indian Law Unit provides legal help focused on Idaho's Indian Reservations. The Migrant Farmworker Law Unit provides services tailored to the needs of Idaho's migrant population.

Idaho Legal Aid provides assistance with the housing laws and issues such as:

- Evictions
- Fair Housing Act Homeowner rights House foreclosure Mobile home tenants
- Property taxes Rights of tenants Safe housing Utility bills
- Idaho Legal Aid Services is limited in what types of cases that can be accepted based on program priorities, available staff and funding in each local office.

Protecting the civil rights of Idahoans is key to ILAS's mission of providing equal access to justice for low-income people in our state. Our advocacy attorneys identify issues and develop strategies to address the systemic problems affecting Idaho's most vulnerable residents.

An example of this work is ILAS's ongoing case of *Bell v. City of Boise*. The case concerns homeless people in Boise, a large percentage of which have chronic physical and mental disabilities. In *Bell v. City of Boise* ILAS challenged an ordinance that made it a misdemeanor, punishable by a fine and up to six months in jail, to sleep outside. Homeless people could be cited even when there were no shelter beds available or the person could not stay in a shelter due to a disability. This essentially criminalized sleeping, an activity as necessary to life as eating or breathing.

### ***Bell v. City of Boise***

ILAS filed suit challenging the ordinance in 2009 with pro bono assistance from the Washington D.C. office of Latham Watkins LLP and the National Center for Homelessness and Poverty. Like many impact cases *Bell v. City of Boise* has moved slowly through the courts. The case is currently on appeal at the Ninth Circuit Court of Appeals.

In August 2016, *Bell v Boise* caught national attention when the US Department of Justice (DOJ) filed a Statement of Interest, agreeing with ILAS's position that the city may not punish a homeless person for conduct that is inextricably linked to their homeless status. The DOJ noted that the lack of available shelter space and housing alternatives make it "impossible for some homeless individuals to comply" with the camping ban, and stated "[i]f a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless" a clear violation of the Eighth Amendment's protections against cruel and unusual punishment.

*ILAS Community Report, 2015*

### ***Martin v. Boise***

The City of Boise has reached an agreement in *Martin v. Boise* in February 2021. This historic settlement concludes 12 years of litigation about homelessness in Boise.

The agreement ensures people experiencing homelessness will not be cited or arrested for sleeping outdoors when no shelter is available, and the city will continue to take steps to put every person experiencing homelessness in Boise on a path to permanent housing.

The City will invest \$1,335,000 in preventing homelessness in our community in 2021, at least one-third of which will be committed to rehabilitating or creating additional overnight shelter space.

Boise will amend two ordinances to bring them in line with the City's current practice of protecting the constitutional rights of those who are unable to access shelter based on disability, sexual orientation, or religious practices. The Boise Police Department will adopt and implement additional guidance and training for officers to further ensure no person experiencing homelessness is issued a citation when no shelter is available to them.

This agreement is a roadmap to a final dismissal of all remaining claims against the City.

*"Settlement Reached in Groundbreaking Martin v. Boise Case"* City of Boise Press Release

## City of Nampa Housing Survey

City of Nampa distributed a housing survey to residents between August and September 2021 to assess whether residents were informed about fair housing rights, whether they had experienced discrimination in attaining housing, and how they chose to deal with discriminatory practices.

The City received 438 survey responses.

- 81% of respondents had a primary residence in Nampa. 10% were renters.
- 92% of respondents identified as white. 9% of respondents identified as Hispanic or Latino.
- 11% of respondents identified that they are living with a disability.
- 1% of respondents reported that they do not have internet in their home.

Generally, residents in Nampa stated that they were aware of fair housing requirements and that housing discrimination is not an issue.

- 90% of respondents answered that they were aware of basic fair housing requirements.
- **29% of respondents answered that they believe that housing discrimination is an issue in Nampa.**

However, a significant portion of respondents reported that housing discrimination was something that they had personally experienced.

- 4% of respondents stated that they had experienced housing discrimination.
- 11% of respondents stated that they knew someone who experienced housing discrimination.

The most common housing discrimination reported in survey results centered around rental housing.

- **50% of respondents stated that there are “housing providers who refused to rent or deal with a resident”.**
- 21% of respondents stated “housing provider refused to make reasonable accommodations for a tenant with disabilities.”
- 19% of respondents stated that the “Real Estate agent directed people to certain neighborhoods”.
- 18% of respondents stated that “housing provider falsely denied that housing was available.”

The survey responses showed that respondents were unlikely to report housing discrimination because they did not believe it would help or know how to file a complaint. Only 10% of respondents who stated they had experienced housing discrimination stated that they reported the incident.

- 52% of respondents who experience fair housing discrimination stated that they did not believe filing a complaint would make a difference.
- 36% of respondents who experience fair housing discrimination stated that they did not know where to file a complaint.
- 15% of respondents who experience fair housing discrimination stated that filing a complaint was too much trouble.
- 15% of respondents who experience fair housing discrimination stated that they were afraid of retaliation if they filed a complaint.

## **Sampling of comments from the Nampa Community Survey**

These are comments received from respondents of the Nampa Community Survey to fair housing questions.

### **Do you believe housing discrimination is an issue in Nampa?**

- Race and familial status is a issue
- When we bought our home, neighbors were glad we weren't a Mexican family
- Neighborhoods seem to be segregated by income.
- For people who have a criminal record, especially people labeled as "felons." It's like the mark of Cain. We must change this narrative. It's neither Christian, Neighborly, nor Just.
- People will not even call you back if you give an ethnic name or have an accent
- There is an abundance of confederate flags throughout this town even in the city parade. People are openly racist and hateful here while being oppressively "Christian." Nampa has an enormous problem they don't even attempt to hide or address.

### **Have you ever experience housing discrimination?**

- Our daughter helps homeless get into housing. She had been told no by rent managers because they don't want the homeless in their rentals.
- Before getting into my current home, I lived in a rental that refused to make even the simplest and most reasonable accommodations as my disability progressed and my mobility lessened. They even made me fight for the right to do some of the accommodations myself at no cost or consequence to them. I also lived in subpar conditions after receiving one too many "warnings" that I wouldn't have a place to live if I kept trying to get them to fix things; including but not limited to faulty wiring and unstable structures.
- I have called and said a different name and they call me back and then I tell them that was my friend helping me and give them my actual name. I have helped call houses and left a bounced call with no accent and they call back after the actual customer leaves two and gets no call returns.

### **How did you or someone you know encountered housing discrimination?**

- Based on number of children
- Occupant knew eviction would happen if they asked owner to make repairs to heat and



ac so they have been living w out.

- Property manager charging high application fees and or no housing no housing was actually available
- Either people are denied simply because of a past felony conviction OR they are forced to pay twice or three times the amount of a deposit as well as first and last month's rent. It's soul crushing.
- I have been told to remember my place before. That the disabled and the poor didn't belong in the nicer communities.
- Only based their decision on a credit score. Took application fees and knew they would not deal with anyone that had a disability or average credit score. . .

**If you believe you have been subjected to discriminations, have you reported the incident?**

- When you have barely enough to get by, and you upset the landlord, they have way too much power to get rid of you and then you are on the streets. **I reported the first time and suffered the retaliation and loss of my home.** I refused to report any of the others because nothing was ever done to the first landlord and I lost my home over it so it became safer to keep my mouth shut and just try to survive.
- Nobody has time or money to deal with that when you are actively trying to find housing. You just have to move on.
- No concrete evidence

## Identification of Impediments to Fair Housing Choice

The AI is a comprehensive review of a jurisdiction's laws, regulations, and administrative policies, procedures, and practices affecting the location, availability, and accessibility of housing, as well as an assessment of conditions, both public and private, affecting fair housing choice.

The AI is a review of impediments to fair housing choice in the public and private sector. Impediments to fair housing choice are any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that restrict housing choices or the availability of housing choices, or any actions, omissions, or decisions that have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, religion, sex, disability, familial status, or national origin. Policies, practices, or procedures that appear neutral on their face but operate to deny or adversely affect the housing provision to persons of a particular race, color, religion, sex, disability, familial status, or national origin may constitute such impediments.

Impediments include actions or omissions in the jurisdiction's public or private housing sector that:

- Constitute violations, or potential violations, of the Fair Housing Act
- Are counterproductive to fair housing choice, such as NIMBYism:
- Community resistance when minorities, persons with disabilities, and/or low-income persons first move into White and/or moderate- to high-income areas
- Community resistance to the siting of housing facilities for people with disabilities in residential neighborhoods based on their disabilities
- Have the effect of restricting housing opportunities on the basis of race, color, religion, sex, disability, familial status, or national origin.

## Public Sector

### Zoning and Site Selection

Local government policies that limit or exclude housing facilities for persons with disabilities or other housing for homeless people from certain residential areas may violate the provisions of the Fair Housing Act. This is because they may indirectly discriminate against persons with disabilities and minorities, many of whom are homeless. Building codes that require certain amenities or setbacks also affect the feasibility of providing low- and moderate-income housing development.

Even where zoning or other government policies are permissive, neighborhood residents often resist the placement of certain types of housing in their area. The attitude of local government officials, public pronouncements of general policy, and careful planning and implementation of individual housing efforts by providers are key aspects for overcoming resistance of this kind.

Placement of new or rehabilitated housing for lower-income people is one of the most controversial issues communities face. If fair housing objectives are to be achieved, the goal must be to avoid high concentrations of low-income housing.

Whether the persons to be served are families with children, persons with disabilities, homeless persons, or lower-income minorities, many communities feel strongly that housing for these persons should be provided but “not in my back yard” (NIMBY). This attitude seriously affects the availability of housing for people in these groups and is one of the most difficult challenges jurisdictions encounter in promoting fair housing objectives.

HUD has regulations governing the selection of sites for certain HUD-assisted housing programs. These regulations are flexible and express the goal previously stated. Jurisdictions should strive to meet the intent and spirit of these regulations in providing or approving sites for all of the low- and moderate- income housing developed in the community.

### Southwestern Idaho Cooperative Housing Authority (SICHA)

***Public housing was established to provide decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities. Public housing comes in all sizes and types, from scattered single-family houses to high-rise apartments for elderly families.***

U.S. Department of Housing and Urban Development (HUD) administers Federal aid to Southwestern Idaho Cooperative Housing Authority (SICHA), the regional Housing Authority, to help manage the housing for low-income residents at rents they can afford.

Rent, referred to as the Total Tenant Payment (TTP) in this program, is based on a family's anticipated gross annual income less deductions, if any. HUD regulations allow SICHA to exclude from annual income the following allowances: \$480 for each dependent; \$400 for any elderly

family or a person with a disability; and some medical deductions for families headed by an elderly person or a person with disabilities. SICHA determines if any allowable deductions should be subtracted from the client's annual income based on the application. Annual income is the anticipated total income from all sources received from the family head and spouse, and each additional member of the family 18 years of age or older.

The formula used in determining the TTP is the highest of the following, rounded to the nearest dollar:

- 30 percent of the monthly adjusted income. (Monthly Adjusted Income is annual income less deductions allowed by the regulations);
- 10 percent of monthly income;
- welfare rent, if applicable; or
- a \$25 minimum rent or higher amount (up to \$50) set by a housing authority.

### ***Housing Choice Vouchers***

Section 8 vouchers can be an extremely effective tool in reducing concentrations of low-income households. This was the intent of the voucher choice program when it was introduced in 1974. Sometimes voucher holders are discriminated against by landlords who are unwilling to accept Section 8 vouchers. Source of income is not a protected class in Idaho.

Consequently, voucher holders must be located where rental housing is available. The voucher holder's rental options are limited, in most cases, to rental units priced at or below Fair Market Rent.

The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants can find their own housing, including single-family homes, townhouses, and apartments.

The participant is free to choose any housing that meets the program's requirements and is not limited to units located in subsidized housing projects.

Housing choice vouchers are administered locally by public housing agencies (PHAs). Housing Alliance and Community Partnerships (SICHA), the housing authority for the City of Nampa, receives federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program.

A family issued a housing voucher is responsible for finding a suitable housing unit of the family's choice where the owner agrees to rent under the program. This unit may include the family's present residence. Rental units must meet minimum health and safety standards, as determined by the Housing Alliance and Community Partnerships.

A housing subsidy is paid to the landlord directly by the SICHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program. Under certain circumstances, if authorized by the SICHA, a family may use its voucher to purchase a modest home.

Eligibility for a housing voucher is determined based on the total annual gross income and family size. It is limited to US citizens and specified categories of non-citizens who have eligible immigration status. In general, the family's income may not exceed 50% of the median income for the county or metropolitan area in which the family chooses to live. By law, SICHA must provide 75 percent of its vouchers to applicants whose incomes do not exceed 30 percent of the area median income. Median income levels are published by HUD and vary by location.

Since the demand for housing assistance often exceeds the limited resources available to HUD and the local housing agencies, long waiting periods are common. A PHA may close its waiting list when it has more families on the list than can be assisted in the near future. PHAs may establish local preferences for selecting applicants from their waiting list.

The SICHA calculates the maximum amount of housing assistance allowable. The maximum housing assistance is generally the lesser of the payment standard minus 30% of the family's monthly adjusted income or the gross rent for the unit minus 30% of the monthly adjusted income.

For example, PHAs may give a preference to a family who is (1) homeless or living in substandard housing, (2) paying more than 50% of its income for rent, or (3) involuntarily displaced. Families who qualify for such local preferences move ahead of other families on the list who do not qualify for any preference. Each PHA has the discretion to establish local preferences to reflect its particular community's housing needs and priorities.

### **Sale of Subsidized Housing and Possible Displacement**

In the sale of subsidized housing, the objective should be to preserve lower-income housing opportunities to the maximum extent feasible. However, suppose any displacement of a current minority or disabled low-income families occurs. In that case, the objective should be to provide other housing opportunities to displaced households by giving them a real choice to relocate inside and outside minority neighborhoods or in buildings predominantly occupied by minorities or persons with disabilities. Because a relocation plan often places sole reliance on the provision of certificates or vouchers to displaced households, a good program to promote real choice in the use of certificates and vouchers is essential.

**SICHA does not have any properties that would be impacted by the sale of property or would displace tenants.**

## **Private Sector**

Under the broad term “private sector” are many specific aspects of the jurisdiction’s housing market that should be examined to determine whether fair housing objectives are being served. Government policies and procedures that regulate, monitor, or otherwise impact rental, sales, and property insurance practices can play a significant role in promoting fair housing choice.

### **Lending Policies and Practices**

Until very recently, mortgage lending and real estate appraisal policies and practices were openly discriminatory. Decisions regarding property values, lending criteria, and related factors frequently rested on the race or ethnicity of the applicant and the racial or ethnic identity of the neighborhood in which the subject property was located. Lending policies and practices also treated applicants differently based on gender. Because of the close relationship between mortgage lending and appraisal activities, the policies and practices in one area significantly impact those in the other area.

Appraisal and lending criteria that look at age, size, or minimum value of a dwelling in light of “stability” factors—such as whether the neighborhood is homogeneous or changing culturally or socially—may be more recent iterations of previous policies and criteria that referred openly to neighborhood stability or change in terms of racial characteristics. Intentional or inadvertent discrimination may result from applying these criteria or various other factors, some of which may be very difficult or impossible to detect in a fair housing review by a regulatory or other agency.

Lending policies and requirements related to credit history, current credit rating, employment history, and general character of applicants enable lenders to use a great deal of discretion and in the process deny loans even though the prospective borrower would have been an acceptable risk. In October 1992, the Federal Reserve Bank of Boston released a study of 131 Boston area lenders that showed that the subjectivity built into the loan process is a principal cause of discrimination in lending.

The study is based on the review of 3,062 loan applications. The study concluded that, after controlling for all objective indicators of applicant risk, lenders still rejected members of minority groups 56 percent more often than otherwise identical White applicants. For Whites, “compensating factors” are considered that result in loan approval at a much higher rate than for Blacks or Hispanics.

Studies such as this point to the need for affirmative action by lenders themselves to look at their policies and practices and change the manner in which judgments are made by every person who plays a role in the lending process.

Lenders may apply different terms for different applicants or dwellings in different neighborhoods. Frequently, the terms offered to Blacks or other minority borrowers have been

less favorable than those offered to nonminority borrowers. Part of this issue is that the less favorable terms have been the only terms available for the dwellings minority borrowers plan to purchase or in the neighborhoods where they reside or the dwellings they plan to purchase. Often, the limited lending options available in such neighborhoods have been offered by lenders who operate only in such areas.

Because some banks or savings and loan institutions in cities will not make loans in minority neighborhoods, minority borrowers cannot benefit from competitive loan offerings available in the larger market.

### **Home Mortgage Disclosure Act**

The Home Mortgage Disclosure Act (HMDA) was enacted by Congress in 1975 and is implemented by the Federal Reserve Board's Regulation C. The Act was implemented in response to mortgage credit shortages in older urban neighborhoods (particularly those with predominantly minority populations).

On July 21, 2011, the rule-writing authority of Regulation C was transferred to the Consumer Financial Protection Bureau (CFPB). This regulation provides the public loan data that can be used to assist:

- in determining whether financial institutions are serving the housing needs of their communities;
- public officials in distributing public-sector investments to attract private investment to areas where it is needed;
- and in identifying possible discriminatory lending patterns.

The Fair Housing Act applies to mortgage lending just as it does to other aspects of housing. Lenders may not:

- Refuse to make a mortgage loan;
- Refuse to provide information regarding loans;
- Impose different terms or conditions on a loan (such as different interest rates, points, or fees); or
- Discriminate in appraising property based on race, color, national origin, religion, sex, familial status, or disability.

Most banks and other lending institutions must report to the Federal Financial Institutions Examination Council (FFIEC) on their lending practices. Information from the Federal Financial Institutions Examination Council (FFIEC) is available to the public as Home Mortgage Disclosure Act data (HMDA).

Information reported about the clients and the properties includes data related to such elements as race, gender, marital status, income level of the mortgagee, location of the dwelling by census tract, type of housing, value of housing, etc. The information required and

the manner of reporting has been modified several times since the adoption of the HMDA. Collection information requirements continue to be modified to meet the changing needs of those who utilize this information for the purpose intended by Congress. Additionally, the criteria that determine which institutions must report continue to be modified as well.

HMDA data is filed with the regulatory agency given oversight for the particular financial institution performing the reporting. These agencies include the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the National Credit Union Association. The Federal Financial Institutions Examination Council (FFIEC) is directed to compile annual data by census tract.

The disparities in homeownership across racial and ethnic lines reflect only the symptoms of underlying impediments in the home mortgage application process. The Home Mortgage Disclosure Act (HMDA) data was compiled for City of Nampa to better understand the barriers that members of protected classes face in obtaining mortgages.



## **Public and Private Sector**

### **Fair Housing Enforcement**

Effective fair housing enforcement lies at the heart of a comprehensive program to affirmatively further fair housing. The structure of this program varies among communities based on community size and resources.

To assure good standing for HUD's Community Planning and Development (CPD) programs, the jurisdiction should address any and all concerns expressed by HUD in contract conditions that relate to fair housing and equal opportunity performance as required by the laws and regulations governing these programs. These concerns include any and all court decisions relating to fair housing and other civil rights laws to which the jurisdiction or the PHA is subject.

The City of Nampa can request that all subrecipients who received HUD CDBG funds from the City provide their clients with information on fair housing and the process for filing a complaint. Additionally, the materials should, at a minimum, be available in Spanish.

### **Informational Programs**

Regardless of whether they have completed an AI, all jurisdictions should be conducting fair housing education and outreach activities.

The City of Nampa has robust fair housing program. The City has a process for recording all fair housing activities and evaluating their effectiveness.

- The City promotes Fair Housing week each April.
- The City is a member of the Fair Housing Council.
- The City fields fair housing complaints and refers residents to the Intermountain Fair Housing Council.
- The City sponsors training and outreach on fair housing.



# Assessment of Current Public and Private Fair Housing Program

Census data, HMDA data, and state and federal complaints provide a statistical basis for fair housing issues. There also may be situations where discrimination or other unfair housing practices occur but go unreported. To elicit a deeper understanding of fair housing issues within a community, an analysis of the City of Nampa's policies and perspectives can provide a more detailed assessment of the community, extending the analysis beyond just the reported statistics. The key factor in reviewing the City of Nampa's policies is evaluating how the jurisdiction manages the HUD Community Development Block Grant funds and supports fair housing practices.

## **HUD Five-Year Consolidated Plan**

The U.S. Department of Housing and Urban Development (HUD) requires each entitlement jurisdiction to complete a Consolidated Plan and certify compliance with the Consolidated Plan Final Rule.

The Consolidated Plan is intended to:

- Serve as the long-range planning document for affordable housing development and community service funding;
- Provide priorities for funding for HUD programs and strategies for implementing the priorities; and
- Be an accessible tool to measure the effect of the local funding strategies.

The City of Nampa, Idaho, receives an annual entitlement allocation from the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) program. The Consolidated Plan provides direction on the investment of CDBG dollars over the next five years, from 2022 – 2026. Additionally, each year, the City will produce an Annual Action Plan that details how the City will carry out the goals and objectives identified in this Plan.

A key feature of these grants is the City's ability to choose how the funds will be used. HUD provides a broad range of eligible activities that can be utilized with CDBG funding. The City must determine which of the eligible activities will best serve the needs of the community. HUD requires grantees to develop a Five-Year Consolidated Plan to determine the most pressing needs and develop effective, place-based market-driven strategies to meet those needs.

When developing a Consolidated Plan, the City must first analyze the needs within City of Nampa and then propose strategies to meet those needs.

## Conclusions and Recommendations

The City of Nampa is committed to eliminating racial and ethnic segregation, illegal physical and other barriers to persons with disabilities, and other discriminatory practices in housing.

The City works to:

- Analyze and eliminate housing discrimination
- Promote fair housing choice for all persons
- Provide opportunities for inclusive patterns of housing occupancy regardless of race, color, religion, sex, familial status, disability, and national origin
- Promote housing that is structurally accessible to, and usable by, all persons, particularly persons with disabilities
- Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

Impediments to fair housing choice are:

- Any actions, omissions, or decisions taken because of race, color, religion, sex, disability, familial status, or national origin that **restrict housing choices** or the **availability of housing choices; and**
- Any actions, omissions, or decisions that have this effect.

Policies, practices, or procedures that appear neutral on their face but operate to deny or adversely affect the provision of housing to persons of a particular race, color, religion, sex, disability, familial status, or national origin may constitute such impediments.

Impediments include actions or omissions in the jurisdiction's public or private housing sector that:

- Constitute violations, or potential violations, of the Fair Housing Act
- Community resistance when minorities, persons with disabilities, and/ or low-income persons first move into white and/ or moderate- to high-income areas
- Community resistance to the siting of housing facilities for people with disabilities in residential neighborhoods based on their disabilities
- Have the effect of restricting housing opportunities on the basis of race, color, religion, sex, disability, familial status, or national origin.

## **Impediments to Fair Housing Choice and Action Steps**

As a recipient of HUD CDBG Entitlement funds, the City of Nampa is committed to Affirmatively Further Fair Choices for all residents. Although many issues that affect fair housing choice have been identified, the City is limited in resources and ability to impact all areas. The City of Nampa recognizes the following impediments which may have a direct and substantial impact on fair housing choice and are within the City's ability to impact.

### **IMPEDIMENT #1 – Lack of data on Fair Housing violations**

The Community Needs survey identified that many residents have experiences of varying degrees of potential fair housing violations based upon race, ethnicity, sexual orientation, and gender. In order to fully understand and address fair housing in Nampa, a greater effort needs to be made to gather quantitative data.

**Goal:** Gather data on the level and types of Fair Housing challenges faced by residents.

#### **Action Items**

- Partner with Intermountain Fair Housing Council to have fair housing testing conducted on an annual basis. This should be a separate activity from investigating fair housing complaints.
- Log all fair housing calls received by the City of Nampa. Analyze data annually to see if calls increase or if the nature of the calls changes.
- Request data on an annual basis from 211 on Fair Housing referrals.

### **IMPEDIMENT #2 – Lack Familiarity with Fair Housing Act**

Many landlords are not aware of their responsibilities to provide “reasonable accommodations” as the Fair Housing Act requires. Under the Fair Housing Act, housing providers must make “reasonable accommodations in rules, policies practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling.” Many landlords renting homes or small “mom and pop” housing providers are not aware of the full implications of the Fair Housing Act and the “reasonable accommodations” provision.

**Goal:** Increase awareness and compliance with Fair Housing laws.

#### **Action Items:**

- Provide internal training to City employees and make Fair Housing a priority throughout the City departments.
- Provide information on how to file a fair housing complaint at City offices.
- Provide outreach and training to rental agencies and property management companies on fair housing requirements for reasonable accommodations.

### **IMPEDIMENT #3 – Lack of complaints out of sync with community feedback**

Community feedback and input from residents in the Community Needs Assessment consistently focused on the challenges faced by people renting housing.

**Goal:** Provide greater outreach and support to residents experiencing fair housing violations.

#### **Action Items**

- Ask CDBG subrecipients and community partners to distribute information to all of their clients on Fair Housing and how to make a fair housing complaint.
- Target outreach to reach protected classes.

### **IMPEDIMENT #4 – Concern with rental market and fair housing violations**

Community feedback and input from residents in the Community Needs Assessment consistently focused on the challenges faced by people renting housing. The Community Needs Survey had a high percentage of people reporting potential fair housing violations who are renters.

**Goal:** Provide a more robust way to ensure that the fair housing rights of people renting housing is ensured.

#### **Action Items**

- Provide consistent outreach and education to rental management companies, rental property organizations, and individuals renting housing on what constitutes a fair housing violation.

### **IMPEDIMENT #5 – Limited English Proficiency**

Fair Housing brochures, web pages, and materials are printed mainly in English, limiting Fair Housing information to non-English speaking persons. There is a need to improve language access for people with limited English-speaking proficiency who seek information regarding Fair Housing.

**Goal:** Provide consistent and even Fair Housing services, outreach, and support to all citizens and program applicants.

#### **Action Items**

- Develop a *Language Assistance Plan (LAP)*. Expand Nampa's HUD-funded programs' outreach to include Spanish translation and outreach to Spanish-speaking citizens, Nampa's largest minority group. Under Title VI of the 1964 Civil Rights Act, federal policies set benchmarks by which jurisdictions like Nampa must assure meaningful access to federally funded services.
- Partner with the Idaho Hispanic Chamber to promote the City's HUD-funded programs to the Hispanic community.

- Translate the County's *Community Development Block Grant (CDBG) webpage* and vital HUD-funded program documents in Spanish. Make informational pamphlets and Fair Housing brochures available for LEP individuals.
- Continue to provide citizens with consistent *Spanish translation services*. Utilize a private contractor to test and certify employees so that quality translation services are available to LEP individuals.

## Signature for City of Nampa

By my signature, I certify that the Analysis of Impediments to Fair Housing Choice for City of Nampa is in compliance with the intent and directives of the regulations of the Community Development Block Grant Program regulations.

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Mayor

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Date





## APPENDIX B - Housing and Related Laws File a Complaint

### HUD, FAIR HOUSING AND EQUAL OPPORTUNITY

#### Region X

Alaska, Idaho, Oregon, and Washington Seattle Regional Office of FHEO  
U.S. Department of Housing and Urban Development Seattle Federal Office Building  
909 First Avenue, Room 205  
Seattle, Washington 98104-1000

(206) 220-5170  
(800) 877-0246  
TTY (206) 220-5185

*Civil Rights Complaints:* ComplaintsOffice10@hud.gov <https://www.hud.gov/fairhousing>

FHEO Intake Specialist 1-800-669-9777 or 1-800-877-8339

#### Information About Filing a Complaint

If you believe your rights may have been violated, you are encouraged to submit a complaint. Because there are time limits on when a complaint can be filed with HUD after an alleged violation, you should submit a complaint as soon as possible.

When submitting a complaint, please provide as much information as possible, including:

- Your name and address;
- The name and address of the person(s) or organization your complaint is against;
- The address or other identification of the housing or program involved;
- A short description of the event(s) that cause you to believe your rights were violated;  
and
- The date(s) of the alleged violation.

**Privacy Statement:** The information submitted to HUD may be used to investigate and process claims of housing and other types of discrimination. It may be disclosed for lawful investigatory purposes, including to the U.S. Department of Justice for its use in the filing of pattern and practice suits of housing discrimination or the prosecution of the person(s) who committed the discrimination where violence is involved; the public, where appropriate; and to State or local fair housing agencies that administer substantially equivalent fair housing laws for complaint

processing. Though disclosure of the information is voluntary, failure to provide some or all of the requested information may result in the delay or denial of help with your housing discrimination complaint.

### **Retaliation Is Illegal**

It is illegal to retaliate against any person for making a complaint, testifying, assisting, or participating in any manner in a proceeding under HUD's complaint process at any time, even after the investigation has been completed. The Fair Housing Act also makes it illegal to retaliate against any person because that person reported a discriminatory practice to a housing provider or other authority. If you believe you have experienced retaliation, you can file a complaint.

### **Assistance for Persons with Disabilities**

HUD provides a toll-free teletypewriter (TTY) line: 1-800-877-8339. You can also ask for disability-related assistance when you contact FHEO, including reasonable accommodations and auxiliary aids and services.

### **Assistance for Persons with Limited English Proficiency**

You can file a complaint in any language. For persons with limited English proficiency, HUD provides interpreters. HUD also provides a Spanish language version of the online housing complaint form. You can find descriptions of your fair housing rights in several languages other than English at <https://www.hud.gov/fairhousing>.

## **Statutes**

### **Fair Housing Act**

*42 U.S.C. §§ 3601-19*

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex, familial status, national origin, and disability. It also requires that all federal programs relating to housing and urban development be administered in a manner that affirmatively furthers fair housing.

### **Title VI of the Civil Rights Act of 1964**

*42 U.S.C. § 2000d-1*

Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

### **Section 504 of the Rehabilitation Act of 1973**

*29 U.S.C. § 794*

Section 504 prohibits discrimination based on disability in any program or activity receiving federal financial assistance.

### **Section 508 of the Rehabilitation Act of 1973**

*29 U.S.C. § 794d*

Section 508 requires federal agencies to ensure that the electronic and information technology they develop, procure, or use allows individuals with disabilities to have ready access to and use of the information and data that is comparable to that of individuals without disabilities.

### **Title II of the Americans with Disabilities Act of 1990**

*42 U.S.C. §§ 12131 – 12165*

Title II of the ADA prohibits discrimination based on disability in programs and activities provided or made available by public entities. HUD enforces Title II with respect to housing-related programs and activities of public entities, including public housing, housing assistance and housing referrals.

### **Title III of the Americans with Disabilities Act of 1990**

*42 U.S.C. § 12181 – 12189*

Title III of the ADA prohibits discrimination based on disability in the goods, services, facilities, privileges, advantages, and accommodations of places of public accommodations owned, leased, or operated by private entities. The Department of Justice enforces Title III of the ADA, but certain HUD recipients and private entities operating housing and community development programs are covered by Title III of the ADA.

### **Architectural Barriers Act of 1968**

*42 U.S.C. § 4151 et seq.*

The Architectural Barriers Act requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.

### **Section 109 of Title I of the Housing and Community Development Act of 1974**

*42 U.S.C. § 5309*

Section 109 prohibits discrimination on the basis of race, color, national origin, sex, and religion in any program or activity funded in whole or in part under Title I of the Community Development Act of 1974, which includes Community Development Block Grants.

### **Title IX of the Education Amendments Act of 1972**

*20 U.S.C. §§ 1681-83, 1685-88*

Title IX prohibits discrimination on the basis of sex in any education programs and activities that receive federal financial assistance. HUD enforces Title IX when it relates to housing affiliated with an educational institution.

### **Violence Against Women Act**

*42 U.S.C. § 14043e-11*

VAWA provides housing protections for victims of domestic violence, dating violence, sexual assault, and stalking in many of HUD's housing programs. VAWA also requires the establishment of emergency transfer plans for facilitating the emergency relocation of certain tenants who are victims of domestic violence, dating violence, sexual assault, or stalking.

### **Age Discrimination Act**

*42 U.S.C. §§ 6101 – 6107*

The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

## **Executive Orders**

### **Executive Order 11063**

#### **Equal Opportunity in Housing**

Executive Order 11063, issued on November 20, 1962, prohibits discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds.

### **Executive Order 12892**

#### **Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing**

Executive Order 12892, issued on January 17, 1994, requires federal agencies to affirmatively further fair housing in their programs and activities, and provides that the Secretary of HUD will be responsible for coordinating the effort.

### **Executive Order 12898**

#### **Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**

Executive Order 12898, issued on February 11, 1994, requires that each federal agency conduct its program, policies, and activities that substantially affect human health or the environment in a manner that does not exclude or otherwise subject persons to discrimination based on race, color, or national origin.

### **Executive Order 13166**

#### **Improving Access to Services for Persons With Limited English Proficiency**

Executive Order 13166, issued on August 11, 2000, requires each federal agency to take steps to ensure that eligible persons with limited English proficiency are provided meaningful access to all federally-assisted and federally-conducted programs and activities.

### **Executive Order 13217**

#### **Community Based Alternatives for Individuals With Disabilities**

Executive Order 13217, issued on June 18, 2001, requires federal agencies to evaluate their policies and programs to determine if any can be revised or modified to improve the availability of community-based living arrangements for persons with disabilities.

## **Regulations**

### **Accessibility Standards for Design, Construction, and Alteration of Publicly Owned Residential Structures**

[24 C.F.R. part 40](#)

### **Affirmative Fair Housing Marketing**

[24 C.F.R. part 108](#)

[24 C.F.R. part 110](#)

[24 C.F.R. part 200, subpart M 24 C.F.R. § 203.12\(b\)\(3\)](#)

### **Affirmatively Furthering Fair Housing**

[24 C.F.R. §§ 5.150 – 5.168](#)

### **Certification and Funding of State and Local Fair Housing Enforcement Agencies**

[24 C.F.R. part 115](#)

### **Collection of Data**

[24 C.F.R. part 121](#)

### **Discriminatory Conduct Under the Fair Housing Act**

[24 C.F.R. part 100](#)

### **Equal Access Rule**

[24 C.F.R. § 5.105](#)

[24 C.F.R. § 5.106](#)

### **Fair Housing Act Complaint Processing**

[24 C.F.R. part 103](#)

### **Nondiscrimination and Equal Opportunity in Housing Under Executive Order 11063**

[24 C.F.R. part 107](#)

### **Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities of the Department of Housing and Urban Development**

[24 C.F.R. part 8](#)

### **Nondiscrimination in Federally-Assisted Programs of the Department of Housing and Urban Development – Effectuation of Title VI of the Civil Rights Act of 1964**

[24 C.F.R. part 1](#)

### **Nondiscrimination in Programs and Activities Receiving Assistance under Title I of the Housing and Community Development Act of 1974**

24 C.F.R. part 6

**Nondiscrimination on the Basis of Age in HUD Programs or Activities Receiving Federal Financial Assistance**

24 C.F.R. part 146

**Nondiscrimination on the Basis of Disability in State and Local Government Services**

28 C.F.R. part 35

**Fair Housing Poster**

24 C.F.R. part 110

**Fair Housing Initiatives Program**

24 C.F.R. part 125

**Information and Communication Technology Standards and Guidelines**

36 C.F.R. part 1194

**Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance**

24 C.F.R. part 3

**Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking**

24 C.F.R. §§ 5.2001 – 5.2011