

Policy objective: Reducing housing discrimination

Housing discrimination persists in American society, despite efforts to eliminate it over the 50 years since the enactment of fair housing laws that make it illegal to refuse to rent or sell a home on the basis of race or national origin.

Over time, discrimination has become more subtle, with housing owners and their representatives often treating prospective renters and buyers differentially rather than explicitly refusing to rent or sell on the basis of race or ethnicity. For example, lenders may not offer the most desirable loan products to prospective homeowners who are members of minority groups, and owners of rental properties may show fewer units to prospective minority renters.

New protected classes added in the late 1980s—people with disabilities and families with children—may face additional forms of de facto discrimination. People with physical disabilities may have difficulty finding housing with an accessible entrance or doorways wide enough to accommodate a wheel chair or walker, or may encounter landlords who are unwilling to make the modest modifications needed to make homes livable. People with mental disabilities may be denied access to housing because of fear that their behavior will be disruptive or that they will not receive the support they need to live independently. Families with children may find that most rental housing is too small (or that occupancy codes deem it too small), or that landlords refuse to rent to them because the household includes children.

As part of their strategic planning, cities, towns, and counties should consider their historic patterns of housing discrimination based on race and ethnicity, as well as any available evidence—for example, from the city's assessment of fair housing (AFH), fair housing testing results, or evidence presented in recent litigation—about the extent to which those patterns continue. Cities, towns, and counties with large minority populations and patterns of housing discrimination may want to consider providing support to private fair housing and legal aid organizations as part of their overall housing strategies. These organizations can help identify and measure current housing discrimination through fair housing testing, as well as support litigation on behalf of people who think they have received discriminatory treatment. Advocacy and support from fair housing groups can extend to groups not explicitly covered by federal fair housing law such as people who may be discriminated against because of their sexual orientation and may create the case for adding protections for LGBTQ groups to local or state fair housing laws.

In addition to working with private partners, cities, towns, and counties can also take direct steps to address various forms of discrimination. By enacting ordinances that prohibit discrimination on the basis of source of income (explicitly including housing choice vouchers), cities, towns, and counties can increase housing choice and open up access to rental housing (including single family rentals) in resource-rich locations in which access is often denied by owners of private rental housing.

Cities, towns, and counties can also take steps to ensure that occupancy policies implemented by the owners of rental housing are fairly enforced and units are available for occupancy to all eligible renters. For example, federal law prohibits landlords from charging higher security deposits to people in wheelchairs, or families with children. The law also requires landlords to allow reasonable accommodations and reasonable modifications as needed for people with disabilities to fully use and enjoy their homes. Cities, towns, and counties can create educational campaigns to ensure landlords and tenants are aware of these requirements, and operate hotlines for tenants to call if they believe they are being discriminated against.

In some cases, city policies may actually have an adverse [disparate impact](#) on members of a protected class, in which case they could represent unlawful discrimination. For example, city policies that make housing for families with children financially infeasible (e.g., through requirements for substantial additional parking for larger units that are not justified by historical or expected use patterns) may make it more difficult for families with children to find housing in the city or in a particular neighborhood. City policies should be closely examined to determine whether they have an adverse disparate impact on members of a protected class that could have a discriminatory effect.

Finally, cities, towns, and counties should make sure that housing programs and subsidies are implemented in a non-discriminatory way. Once again, such discrimination is likely to be more subtle than explicitly denying access to a program to people in a protected class and instead involve the way in which the availability of the housing or the subsidy is made known. An issue to consider is whether dedicated subsidized housing is “affirmatively” (i.e., proactively) marketed to people who may not know of its existence—for example, because it is in a neighborhood in which they are not likely to live already. HUD monitors affirmative marketing requirements for HUD-subsidized dedicated assisted housing, but how effectively they are implemented probably varies a great deal and needs local scrutiny.

While members of groups protected by federal fair housing law use tenant-based housing vouchers at high rates, some housing authorities have faced charges of discrimination in outreach and creation of waiting lists for housing vouchers. For

example, at one point the Chicago Housing Authority was required to increase access to the voucher program among Latinos as part of the settlement of litigation that alleged that CHA had systematically failed to produce materials in Spanish and reach out to the Latino community. The use of site-based waiting lists, work preferences, or neighborhood residency preferences can also raise fair housing concerns if these policies have the effect of excluding applicants who are members of protected classes, such as members of certain racial and ethnic groups or people with disabilities who are unable to work.

This exhibit describes how policy tools in two categories in the [Housing Policy Library](#) can be used to reduce housing discrimination.

III. Help households access and afford private-market homes

Logic/mechanism:

Tenant-based rental assistance can increase access to areas from which racial and ethnic minorities have traditionally been excluded.

Tenant-based assistance can make single-family houses available for rent or purchase by families with children.

Programs that reduce barriers to homeownership can be focused on racial and ethnic minorities who may face lending discrimination, and can help overcome shortages of affordable housing for families with children.

Specific policies:

Enact **source of income laws** that prohibit owners from refusing tenants because part of their rent payment will come from a housing voucher or other tenant-based rent subsidy.

Use flexible sources of funding to support **fair housing** and **legal aid** groups that may support enforcement of source of income laws and monitor patterns of use of tenant-based assistance.

Support **fair housing** and **legal aid** groups to conduct paired testing to monitor and investigate possible discrimination, investigate policies that may have a disparate impact on members of protected classes and represent affected families and individuals.

Encourage city agencies to participate directly in **enforcement of fair housing laws** by acting as plaintiffs or filing amicus briefs.

IV. Protect against displacement and poor housing conditions

Logic/mechanism:

Policies that promote housing stability can help prevent evictions and condo conversions that may disproportionately affect members of protected classes.

Policies that improve the quality of unsubsidized new and existing housing can be used to add accessibility features.

Specific policies:

Enact “**just cause**” **eviction policies** and **protections from condo conversions**.

Combining policies to reduce housing discrimination

The policies highlighted in the exhibit can be used in combination, as illustrated in the following scenario.

A city finds that historic patterns of housing discrimination against African American families are reflected in current residential patterns. The PHA’s Housing Choice Voucher program serves a high percentage of African American families, but almost all voucher units are located in traditional African American neighborhoods. Residents of dedicated affordable rental properties outside of these locations are mostly white or Asian. The city has recovered well from the Great Recession and has experienced a boom in new rental housing in neighborhoods close to downtown or with rapid transit access, but a very small number of those units are occupied by African American households.

The city decides to implement a variety of policies to identify and prevent racial discrimination. The strategy includes financial support for a new private fair housing organization that has been created by a group of lawyers who are concerned about levels of racial segregation in the city. The group initiates a fair housing testing program that involves sending matched pairs of prospective renters to the new rental developments as well as rental housing in other neighborhoods, to see if African American applicants are being discriminated against. In cases where discrimination is found, the city intends to enforce its fair housing law, which has been determined by HUD to be “substantially equivalent” to federal fair housing law, and obtain a legal remedy with funding under the Federal Fair Housing Assistance Program (FHAP).

City officials also begin working to create an ordinance that specifically prohibits discrimination on the basis of housing choice voucher receipt. In anticipation of enactment of this policy, city housing staff begin working with the public housing

agency to conduct outreach to landlords outside of traditional African American neighborhoods. Outreach efforts include dispelling myths about the Voucher program and tenants and providing basic educational materials about their obligations under the Fair Housing Act. The city also works with the PHA to assess the extent to which owners of dedicated affordable rental properties are complying with affirmative marketing requirements, and create a best practices guide that explains owners' obligations under the law and penalties for failure to comply.