



⑥ In addition to protections available under the federal FHA, some cities in Idaho have passed anti-discrimination laws that offer protections for LGBTQ persons.

⑦ Twelve cities in Idaho have passed broad local laws that make discrimination illegal based on sexual orientation and gender identity in areas such as private and public employment, housing, and public accommodations: Bellevue, Boise, Coeur d'Alene, Driggs, Hailey, Idaho Falls (employment and housing only), Ketchum, Lewiston, Moscow (employment and housing only), Pocatello, Sandpoint and Victor.

These laws typically include exceptions for religious organizations. None of the local laws allow for private lawsuits. Ketchum and Sandpoint establish human relations review boards that have the power to investigate and attempt to informally resolve complaints between the parties through mediation. Lewiston and Pocatello allow mediators selected by the city attorney to attempt to resolve the complaints between the parties. In all of the localities, violation of the non-discrimination provisions is considered a misdemeanor punishable by a fine and in some cities, possible jail time. Complaints about violations of local non-discrimination ordinances should be filed with the city police department.

A link to Boise's ordinance, a link to Idaho Falls's FAQ page, and a list of the code citations for each city's anti-discrimination statutes are available on the online version of this brochure at idaholegalaid.org.



Fair Housing Resources:

- ✦ U.S. Department of Housing and Urban Development (HUD) 1-800-669-9777 or 1-800-927-9275 (TDD)
- ✦ hud.gov
- ✦ Idaho Legal Aid Services Housing Hotline at 844-804-0386
- ✦ idaholegalaid.org
- ✦ Intermountain Fair Housing Council (208) 383-0695
- ✦ ifhcidaho.org
- ✦ Idaho Human Rights Commission (208) 334-2873
- ✦ humanrights.idaho.gov

The work that provided the basis for this publication was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.



YOUR FAIR HOUSING RIGHTS LGBTQ

What is the Fair Housing Act?

The Fair Housing Act, Title VIII of the Civil Rights Acts, prohibits discrimination in housing.

① The Fair Housing Act (FHA) makes it illegal to discriminate against someone in a housing matter because that person belongs to a protected class. A protected class includes:

Race color, sex, religion, national origin, disability, and familial status (presence of minor children)

② Sexual orientation and gender identity are not protected classes, but the FHA may still protect against sex discrimination if the discrimination is based on non-conformity with gender stereotypes. In other words, people who do not fit into either masculine or feminine gender roles.

Examples of behavior that could be considered discrimination under the Fair Housing Act:

- A gay man is evicted because his landlord think he will give other tenants HIV/AIDS.
- A transgender woman is asked by the owner of her apartment building not to dress in women's clothing in the common areas of the property.
- A female prospective tenant alleges that a landlord refused to rent to her because she wears masculine clothes and engages in other physical expressions that are usually male.

③

Thanks to a 2012-2016 rule from the US Department of Housing and Urban Development (HUD) called the Equal Access Rules, a tenant or homeowner has equal access to HUD funded programs regardless of sexual orientation or gender identity. Those rules state:

Determining your eligibility for HUD funded housing or an FHA-insured mortgage must be decided without regard to actual or perceived sexual orientation, gender identity, or marital status. Owners, administrators, and lenders who receive HUD funding or are FHA insured can't ask about the sexual orientation or gender identity of an applicant or occupant.



✦ Providers that operate single-sex projects using Office of Community Planning and Development funds are required to provide all individuals, including transgender individuals, with access to programs, benefits and services in accordance with their gender identity without being asked intrusive questions or being asked to provide documentation.

✦ HUD's Native American and Native Hawaiian programs, when HUD funding or FHA-insurance are involved, are required to make a determination of eligibility for housing without regard to actual or perceived sexual orientation, gender identity or marital status.

④

Below are some recent cases that show sex discrimination under the Fair Housing Act.

- ✦ HUD v. George Toone and In Toone Services, LLC – A Charge of Discrimination was brought against Mr. Toone and his company for sex discrimination. The Complainant (accuser) was a transgender female living in a manufactured home park in Texas. When Mr. Toone's company purchased her park, she informed him that she was transgender and asked if she could wear women's clothing in the common areas.
- ✦ Mr. Toone said she could not because this is "not the type of atmosphere we want to promote on private property." Mr. Toone then issued new park rules that said they had the right to refuse entrance to the RV park "to any person for any reason other than for reasons based on race, religion, handicapped, color or national origin." This new rule did not include sex or familial status, protected classes under the FHA. The Complainant refused to sign the new rules because they did not include sex among the protected classes. Mr. Toone evicted the Complainant from the RV park. Mr. Toone and his company were ordered to pay damages to fully compensate the Complainant as well as civil penalties of \$16,000 each.
- ✦ Smith v. Avanti – The landlord in this case refused to rent to Tonya and Rachel Smith. Rachel is a transgender woman. The landlord sent an email to the Smiths stating that the neighbors had concerns about their children and "noise" and that the landlord had always "kept a low profile" and wanted to continue it that way. Tonya wrote back asking what was meant by low profile and the landlord responded that the Smiths' "unique relationship" and "uniqueness" would become the town focus and would jeopardize her low profile in the community. The court found that the Defendant violated the FHA by discriminating against the Smiths based on their sex by relying on stereotypes of with whom a woman or man should be attracted, should marry, or should have a family.

⑤

How to file a FHA Complaint – If you believe you have been a victim of housing discrimination, you have the right to file a housing discrimination complaint with HUD by calling 800-669-9777 (TTY 800-927-9275) by visiting hud.gov or you can utilize HUD's Housing Discrimination smartphone app.