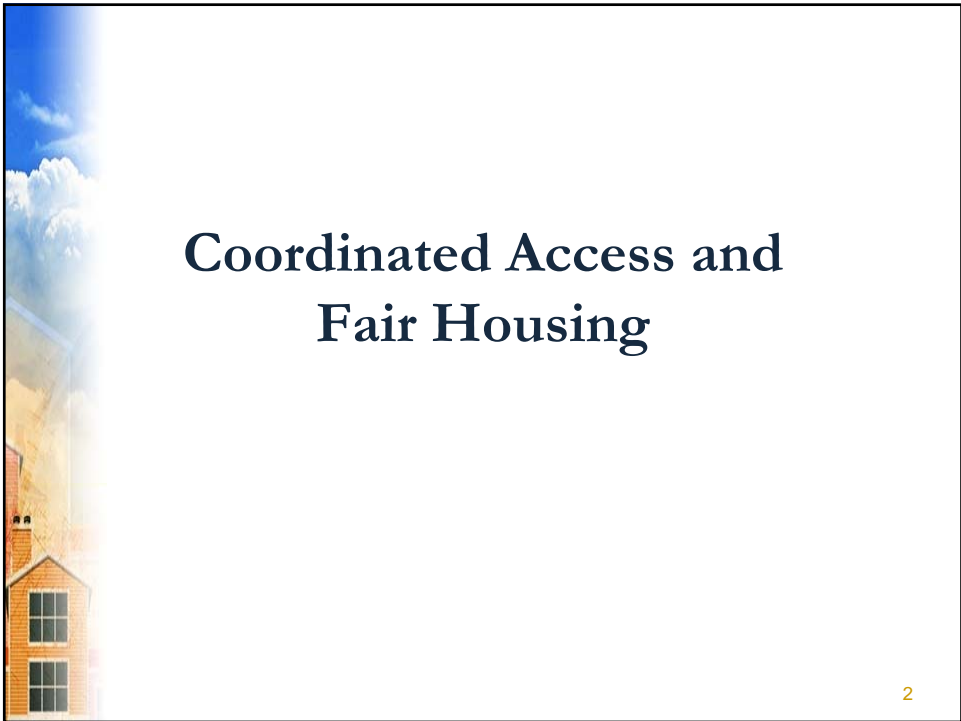


TEXAS DEPARTMENT OF  
HOUSING & COMMUNITY AFFAIRS  
*Building Homes. Strengthening Communities.*

**Emergency Solutions Grants (ESG)  
Learning Opportunity  
January 6, 2016  
Naomi Trejo and Suzanne Hemphill**



**Coordinated Access and  
Fair Housing**

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## Coordinated Access Required

- ❖ Coordinated Access is required:
  - ❖ For ESG by 24 CFR §576.400(d)
  - ❖ For each Continuum of Care by 24 CFR §578.7(a)(8)
- ❖ Initial, comprehensive assessment of the needs of individuals and families for housing and services

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## Coordinated Access - Qualities

- ❖ Prioritization.
  - ❖ People with the greatest need.
- ❖ Low Barrier.
  - ❖ Do not screen out for lack of employment/income, drug/alcohol use, criminal record
- ❖ Standard Access/Assessment.
  - ❖ No wrong-door approach.
- ❖ Use of HMIS or other systems

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## Coordinated Access – HUD Guidance

- ❖ Persons centered – participant choice
- ❖ Fair and equal access – to the coordinated entry process
  - ❖ Accessible to people with disabilities, accessible via public transportation (or there is another method by which people can easily access them, e.g. toll-free or 211 phone number)
  - ❖ The coordinated entry process is able to serve people who speak languages commonly spoken in the community
- ❖ Standardized Access and Assessment – same assessment approach and referrals, uniform decision making process
- ❖ Inclusive – coordinated entry process includes all subpopulations, such as people experiencing chronic homelessness, veterans, families, youth, and survivors of domestic violence.

Source: Coordinated Entry Policy brief <https://www.hudexchange.info/resources/documents/Coordinated-Entry-Policy-Brief.pdf>

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## What is a Protected Class?

- ❖ Individual characteristics that a Subrecipient must not use to distinguish who receives services
- ❖ Covered characteristics depend on which laws are triggered

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## Protected Classes

❖ Title VI:

1. **Race**
2. **Color**
3. **National Origin** (includes language access)

❖ Section 504:

1. **Disability**

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## Protected Classes

Fair Housing Act:

Protect the right to rent, buy a home, obtain a mortgage, or purchase homeowners insurance free from discrimination based:

1. **Race**
2. **Color**
3. **National Origin**
4. **Religion**
5. **Sex**
6. **Disability**
7. **Familial Status**

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## Other Federal Civil Rights Laws

- ❖ American with Disabilities Act (ADA), Title II and Title III
- ❖ The Age Discrimination Act of 1975
- ❖ Executive Order 13166  
(Improving Access to Services for Persons with Limited English Proficiency)
- ❖ General Federal Requirements (24 CFR Part 5), including the Equal Access Rule
- ❖ The Architectural Barriers Act of 1968

And others....

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## State and Local Civil Rights Laws & Rules

- ❖ The Texas Fair Housing Act (Chapter 301 of the Texas Property Code)
- ❖ Local County and City Fair Housing laws ([texas.gov](http://texas.gov))
- ❖ TDHCA Rules - Texas Administrative Code (Title 10, Part 1 and Part 5)
- ❖ TDHCA NOFA & Contracting Requirements

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## Protected Classes and Screening for Diversion

❖ Diversion and homelessness prevention is applied evenly across protected classes. Some examples:

❖ Do: Provide Spanish speakers (or other persons with limited English proficiency) applications for rental assistance in the appropriate language (protected class = national origin)

❖ Don't: Avoid referring someone in need to resources like the food bank because of concerns about limited English proficiency (protected class = national origin)

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## Protected Classes and Assessing Shelter/Needs

❖ How to serve protected class populations that may need to be separate?

❖ Examples:

❖ Allowed: Single gender shelters (at the moment)

❖ Not allowed: Shelter serves families and refuses two same-sex adults

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## Protected Classes and Housing Resources/Barriers

- ❖ Take into account needs of protected classes
- ❖ Examples:
  - ❖ Do: Consider that a person with a hearing loss may need an interpreter for social services (protected class = disability)
  - ❖ Don't: Refer all persons (and families) to housing with only single room occupancy units. However, don't only refer single individuals to SRO units (protected class = familial status)

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## Protected Classes and Prioritizing

May be able to prioritize a specific population IF COC has adopted written standards or a priority is required by another funding source BUT:

- ❖ Caution: Prioritization may be limited. For example, if the COC has adopted a priority for referral for populations needing permanent supportive housing, that does not mean this can be used for tenant-based Rapid-Rehousing or Homeless Prevention.

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## Protected Classes and Eligibility

❖ Base eligibility on factors not related to protected classes

❖ Examples:

❖ Do: Base eligibility on lack of resources and support (no one protected class affected)

❖ Don't: Base eligibility on ability to attend religious services (protected class = religion)

❖ Caution: Base eligibility on ability to attend classes on a specific day/location (protected class = religion/disability)

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## Protected Classes and Connections to Resources

❖ Connect to mainstream resources based on needs

❖ Examples:

❖ Do: Connect families with children to free school lunches (protected class = familial status)

❖ Caution: Establish priority because of diagnosis (protected class may be affected disability)

❖ Don't: Refer clients with mental illness **solely** to local mental health authority or women with children only to domestic violence providers (protected class = disability, gender)

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## Protected Classes and National Objectives

❖ Opening Doors:

- ❖ End Veteran Homelessness by 2015
- ❖ End Chronic Homelessness by 2017
- ❖ Prevent and end homelessness for families, youth, and children by 2020

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## Protected Classes and National Objectives - Vets

End Veteran Homelessness by 2015

- ❖ Compared to the US population veterans are disproportionately male, white (non-Hispanic)
- ❖ Prioritizing homeless veterans may also have an impact on familial status (primarily single person HHs) and national origin.

Source: US Census Bureau, "How Do We Know? A Snapshot of Our Nation's Veterans." Available at <http://census.gov/library/infographics/veterans.html>.

Source: US Census Bureau, "Veterans' Racial and Ethnic Composition and Place of Birth: 2011" American Community Survey Briefs. Available at <http://www.census.gov/hhes/veterans/files/ACS-Veterans-brief-11-22-12.pdf>

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## HEARTH Act Definition of Family

- ❖ A COC has prioritized families with children for its RRH assistance. Bob is in an emergency shelter, but his son Rick (7) is in foster care, and his daughter (9) is living with her Mom, but Bob has joint-managing conservatorship. Does Bob qualify for the priority for RRH assistance? If so, what is his household size?

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## Household Size

- ❖ Answer:
  - ❖ Yes, Bob qualifies for the preference
  - ❖ The household size is three.
- ❖ For RRH/HP household is able to prove the right to possession of the child, the child should be considered in the household's size
- ❖ Provider cannot limit access to a housing program because a household member may be living somewhere else.

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## Reasonable Accommodations

### Subrecipients must:

- ❖ Make reasonable accommodations in policies, practices, and procedures to accommodate individuals with disabilities
- ❖ Pay for modifications to a physical structure that subrecipient uses in the program for reasonable accommodations

### Subrecipients may not, on the basis of disability:

- ❖ Deny qualified individuals the opportunity to participate in ESG program
- ❖ Deny access to ESG assistance as a result of physical barriers

Written standards should include reasonable accommodations

### Citations:

Section 504

ADA Title II and Title III

TAC : Chapter 1, Subchapter B, Section §1.204

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## How Reasonable Accommodations Work

1. **An individual with a disability requests verbally or in writing an accommodation (related to their disability) to a program policy, practice or procedure**
2. **The entity reviews the request and makes the modification or accommodation**  
if request represents a fundamental alteration of the nature of the program or service or an undue financial or administrative burden it is not reasonable)
3. **If accepted, the reasonable modification is made at the Subrecipient's expense. If denied, alternatives must be discussed with the requestor**

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# Applicant selection criteria

ESG providers:

- ❖ Need to have written applicant selection criteria
  - ❖ Eligibility requirements, preferences, restrictions
  - ❖ What do you screen for? What results make applicants ineligible?
  - ❖ Avoid using vague terms like “bad credit,” “negative rental history,” “poor housekeeping,” or “criminal history” unless terms are clearly defined within the criteria made available to applicants

See Compliance training presentations:

<http://www.tdhca.state.tx.us/pmcomp/presentations.htm>

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