



ASSISTANT SECRETARY FOR
FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

MEMORANDUM FOR: Office of Fair Housing and Equal Opportunity
Fair Housing Assistance Program Agencies
Fair Housing Initiatives Program Grantees

FROM: John Gibbs, Principal Deputy Assistant Secretary
for Fair Housing and Equal Opportunity

DATE: September 17, 2025

SUBJECT: Notice of the Withdrawal of FHEO Guidance Documents

EFFECTIVE DATE: Upon receipt

EXPIRATION DATE: This Notice will remain in effect until amended, superseded, or rescinded

PURPOSE: The Office of Fair Housing and Equal Opportunity (FHEO) is announcing the withdrawal of several guidance documents

SUMMARY:

The Office of Fair Housing and Equal Opportunity (FHEO), upon periodic review of its guidance documents, consistent with applicable law, is withdrawing the below guidance which it determines should no longer be in effect.

Consistent with the regulatory reform efforts and in accordance with Executive Order 14192 of January 31, 2025 ("Unleashing Prosperity Through Deregulation"), and Executive Order 14219 of February 19, 2025 ("Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative"), HUD is undertaking a comprehensive review of its sub-regulatory guidance to reduce unnecessary compliance burdens, enhance the effectiveness of guidance documents, and promote principles underlying the rule of law. Equal treatment under the law is a bedrock principle of the United States which guarantees equality of opportunity, not equality of outcomes. Any historical guidance, policies and interpretive rules of the Office of Fair Housing and Equal Opportunity which have not been consistent with these principles are subject to review, revision, or rescission.

This notice informs the public, including the Department's stakeholders, of the guidance documents that the Department is withdrawing through an exercise of the Department's policy-making discretion (i.e., based on a change in Department policy or statutory interpretation.)

BACKGROUND

Agencies often issue statements that, unlike rules promulgated pursuant to legislation, do not carry the force of law. These statements include interpretative rules, which advise the public of an agency's interpretation of the statutes and regulations it administers; and general statements of policy, which advise the public about an agency's intended use of its discretionary authority. Interpretive rules and policy statements are collectively known as "guidance documents." Although guidance is a common tool for agencies to advise the public, it can sometimes be used by agencies to attempt to bind the regulated public without adequate accountability. Within these two general categories, guidance takes a variety of forms, such as explanations of how an agency intends to regulate or use its enforcement discretion; interpretations of legislative stipulations, including clarifications of technical details; compliance guides; statements that are applicable to a single or small group of regulated entities; and internal training materials. Guidance documents are not binding on agencies or regulated parties. This is because guidance documents do not establish legally enforceable responsibilities beyond what is required by the terms of the applicable statutes, regulations, or binding judicial precedent.

The Department of Housing and Urban Development has issued non-binding policy guidance in myriad forms over its history. This guidance has taken the form of guidance documents, interpretive rules, advisory opinions, and policy statements. In some instances, guidance promulgated by the Office of Fair Housing and Equal Opportunity may have adopted interpretations that are inconsistent with the statutory text and purport to impose compliance burdens on regulated parties outside of the strictures of notice-and-comment rulemaking. Even where the guidance might advance a permissible interpretation of the relevant statute or regulation, or afforded the public an opportunity to weigh in, it is the Department's current policy to avoid issuing guidance except where necessary and where compliance burdens would be reduced rather than increased.

The Office of Fair Housing and Equal Opportunity is conducting a review of its guidance documents and has determined to withdraw all guidance materials identified below. Such withdrawal is not necessarily final. The Office of Fair Housing and Equal Opportunity intends to continue reviewing all guidance documents to determine whether they should ultimately be retained or revised and reissued. However, the Office of Fair Housing and Equal Opportunity has determined that the guidance identified below should not be enforced or otherwise relied upon by the Department or stakeholders while this review is ongoing. Accordingly, the Office of Fair Housing and Equal Opportunity is hereby withdrawing all of the guidance set forth below.

ANALYSIS

Agencies should not use guidance documents in an attempt to create new rights or obligations that are binding on persons or entities outside of the Federal Government. The Office of Fair Housing and Equal Opportunity is withdrawing the guidance materials identified in this notice through an exercise of the Department's policy-making discretion (i.e., based on a change in Department policy or statutory interpretation. Further:

- The Office of Fair Housing and Equal Opportunity is committed to issuing guidance only where that guidance is necessary and would reduce compliance burdens rather than increase them. Historically, the Office of Fair Housing and Equal Opportunity has at times

released guidance without adequate regard for whether it would increase or decrease compliance burdens and costs. This policy has changed. To effectuate the Office of Fair Housing and Equal Opportunity's new policy preference, the Office of Fair Housing and Equal Opportunity is withdrawing all such guidance, since the Office has found that such guidance fails one of the following three criteria: (1) the guidance is statutorily prescribed, (2) the interpretation therein is consistent with the relevant statute or regulation, and (3) it decreases compliance burdens.

- The Office of Fair Housing and Equal Opportunity does not believe that any reliance interests compel retention of guidance for several reasons. As a threshold matter, parties understand that guidance is generally non-binding and generally does not create substantive rights. In addition, the Office of Fair Housing and Equal Opportunity will deprioritize enforcement against regulated parties whose conduct does not conform to the guidance during the pendency of any withdrawal. Finally, to the extent guidance materials or portions thereof go beyond the relevant statute or regulation, they are unlawful, undermining any reliance interest in retaining that guidance. Where guidance is not per se unlawful, the Office of Fair Housing and Equal Opportunity nonetheless determines that guidance should be withdrawn and that it should be reissued only if the guidance is necessary and only if it reduces compliance burdens. The Office of Fair Housing and Equal Opportunity determines that the benefits of this policy outweigh the cost to any purported reliance interests.

GUIDANCE WITHDRAWN:

The below table lists the guidance documents that the Office of Fair Housing and Equal Opportunity is withdrawing from use and the date the guidance was issued. These documents will be immediately removed from active use, and in the interim should not be relied upon as authoritative. Handbooks and internal training materials referencing these guidance documents are being revised. New internal and external guidance will be issued where necessary and appropriate. All of these guidance documents have been removed from the [HUD.gov](https://www.hud.gov) website and should not be relied upon by internal or external parties.

Through this notification, the Department is hereby withdrawing the following guidance materials:

Title	Date Issued
Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons	January 22, 2007
FHEO Notice 2013-01: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-funded Programs	April 25, 2013
FHEO 2020-01: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act	January 28, 2020
Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act	February 11, 2021

FHEO Statement on the Fair Housing Act and Special Purpose Credit Programs	December 7, 2021
Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real-Estate Related Transactions	June 10, 2022
Implementation of OGC Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records	June 20, 2022
FHEO Memorandum on Source of Income Testing Activities under the Fair Housing Assistance Program	February 12, 2024
Guidance on Application of the Fair Housing Act to the Advertising of Housing, Credit, and Other Real Estate-Related Transactions through Digital Platforms	April 29, 2024

The Office of Fair Housing and Equal Opportunity will maintain links to FHEO guidance documents that are still in effect. New guidance will be issued when warranted and this will also be made available on the [HUD.gov](https://www.hud.gov) website.