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## **Prohibiting Discrimination Against Renters Using Housing Vouchers Improves Results Lessons From Cities and States That Have Enacted Source of Income Laws**

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The Housing Choice Voucher (HCV) program — the nation’s largest rental housing program, which serves over 2.2 million households — is the quintessential public-private partnership. The federal government provides funds to state and local agencies to fill the gap between what families can afford to pay and local rents, and to administer the program.<sup>2</sup> But the program only works if private landlords are willing to accept the subsidies and rent to voucher holders. Federal law does not prevent landlords from rejecting all housing vouchers, with limited exceptions.<sup>3</sup> A growing number of states and localities have enacted laws, known as source of income protection laws, that can increase voucher acceptance. These laws prohibit discrimination based on income sources such as alimony and disability benefits, and frequently also prohibit discrimination against families that use housing vouchers to help pay their rent.<sup>4</sup> Yet only 1 in 3 voucher households are protected by non-discrimination laws.

Voucher non-discrimination laws appear to be associated with substantial reductions in the share of landlords that refuse to accept vouchers, a recent U.S. Department of Housing and Urban Development (HUD) study has found, consistent with earlier analyses. In addition, these laws may improve voucher holders’ ability to successfully use their vouchers in higher-opportunity areas.

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<sup>2</sup> Center on Budget and Policy Priorities, “Policy Basics: The Housing Choice Voucher Program,” updated May 3, 2017, <http://www.cbpp.org/research/housing/policy-basics-the-housing-choice-voucher-program>.

<sup>3</sup> Units funded under certain federally funded housing programs, such as the Low Income Housing Tax Credit, HUD’s HOME block grant, and the National Housing Trust Fund, are prohibited from discriminating against voucher holders. See Poverty & Race Research Action Council, “Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program Appendix B: State, Local, and Federal Laws Barring Source-of Income Discrimination,” September 14, 2018, pp. 92-95, <http://www.prrac.org/pdf/AppendixB.pdf>.

<sup>4</sup> Some jurisdictions have source of income protections that do not cover voucher holders. Four states have source of income laws that either specifically exclude housing vouchers or have been interpreted by final state court decisions to not cover vouchers (California, Delaware, Minnesota, and Wisconsin).

Although the research outcomes on voucher non-discrimination protections are encouraging, state and local laws could be more effective. Our interviews with voucher policy experts and practitioners at the national, state, and local levels identified recommendations for strengthening existing voucher non-discrimination laws and building support for such laws. Experts stressed that existing laws need adequate enforcement, and that policymakers are more likely to support new voucher non-discrimination laws if the proposals have broad-based support, including from landlords and housing agencies.

While there is currently no general *federal* voucher non-discrimination law, support for such a policy is likely to rise as state and local laws become more widespread. Enactment of a federal source of income law would ensure more consistent tenant protections, particularly in states that are unlikely to adopt one of their own.

## Voucher Non-Discrimination Laws Improve Program's Effectiveness

Tenant-based rental assistance, created during the 1970s, was intended to be a less expensive, private-market-based alternative to government-run affordable housing programs, such as public housing, and has now grown to be the largest federal rental assistance program.<sup>5</sup> The HCV program has the added potential to deconcentrate poverty by letting families choose a unit in a broad set of neighborhoods without the locational constraints of place-based programs.

In practice, however, voucher holders find that their housing opportunities can be limited. They must find a landlord that is willing to rent to them, but landlords in most areas of the country are not required to accept vouchers. The program largely relies on willing private landlords that opt to work with housing agencies and voucher holders. If only a small share of rental units is potentially available to voucher holders, it can be an ongoing challenge for families to find a unit to rent, particularly in a low-poverty community.<sup>6</sup> Landlords' refusal to accept vouchers is likely a significant contributor to the fact that only 14 percent of families with children in the HCV program live in low-poverty neighborhoods (where fewer than 10 percent of residents have incomes below the poverty line).<sup>7</sup>

To address this challenge and make the voucher program work more effectively, 11 states, including Washington, D.C., and over 50 cities and counties have enacted laws that prohibit

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<sup>5</sup> Congress enacted the Section 8 Housing Certificate program in 1974. After experimentation with a more flexible "voucher" model beginning in the 1980s, Congress adopted the current Housing Choice Voucher program in 1998.

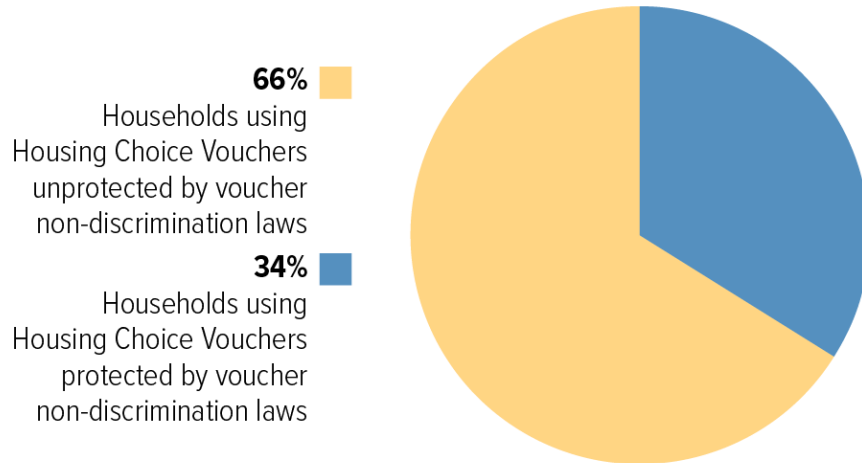
<sup>6</sup> Some research shows that voucher discrimination may be a proxy for racial discrimination, although a recent HUD study on landlord acceptance drew inconclusive results due to sample size. Mary Cunningham *et al.*, "A Pilot Study of Landlord Acceptance of Housing Choice Vouchers," U.S. Department of Housing and Urban Development, September 2018, <https://www.huduser.gov/portal//portal/sites/default/files/pdf/Landlord-Acceptance-of-Housing-Choice-Vouchers.pdf>, and J. Rosie Tighe, Megan E. Hatch, and Joseph Mead, "Source of Income Discrimination and Fair Housing Policy," *Journal of Planning Literature*, 2017.

<sup>7</sup> Barbara Sard *et al.*, "Federal Policy Changes Can Help More Families with Housing Vouchers Live in Higher-Opportunity Areas," Center on Budget and Policy Priorities, September 4, 2018, <https://www.cbpp.org/research/housing/federal-policy-changes-can-help-more-families-with-housing-vouchers-live-in-higher>.

landlords from refusing to rent to voucher holders solely because of their source of income (often called SOI laws). As Figure 1 shows, we estimate that only about one-third of families with vouchers (34 percent) live in jurisdictions with voucher non-discrimination protections, while two-thirds of voucher holders lack such protection. Figure 2 illustrates the geographic reach of these laws.<sup>8</sup>

FIGURE 1

## Non-Discrimination Laws Cover Only 1 in 3 Households Using Housing Vouchers



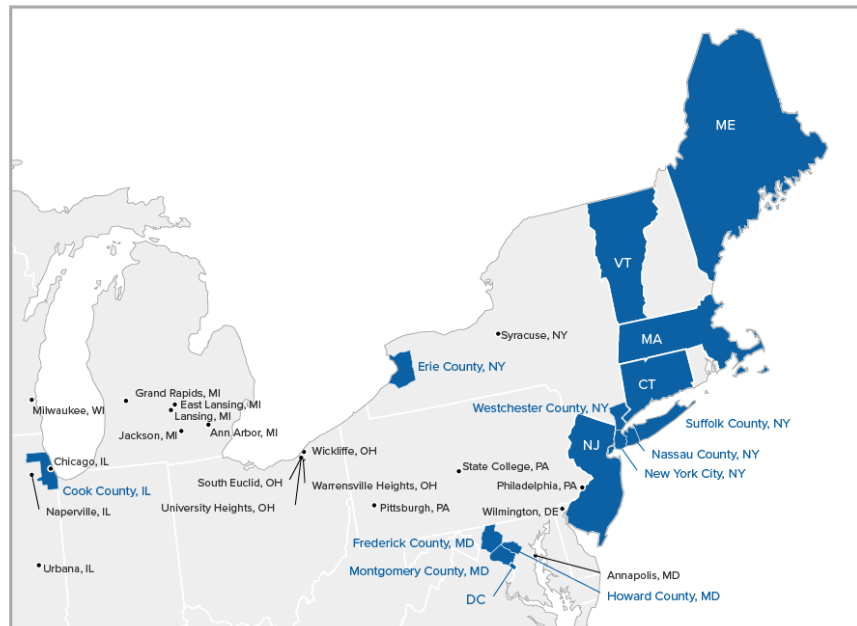
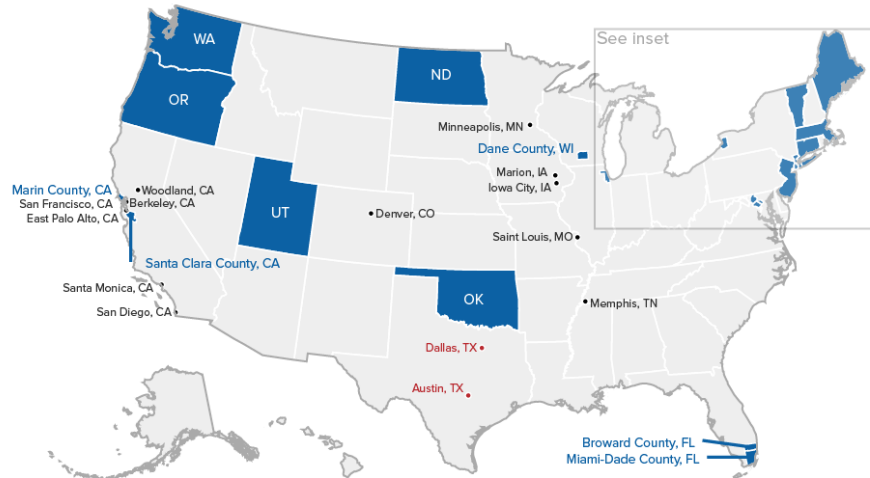
Source: CBPP analysis of anti-discrimination laws in Poverty & Race Research Action Council, "Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination," September 14, 2018. Data on vouchers in use from Department of Housing and Urban Development 2017 Picture of Subsidized Households.

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<sup>8</sup> See our interactive graphic for additional data on jurisdictions with voucher non-discrimination protections, including the number of voucher households they cover, at <https://www.cbpp.org/research/housing/prohibiting-discrimination-against-renters-using-housing-vouchers-improves-results#hous9-12-18>.

FIGURE 2

## Laws Prohibiting Discrimination Against Voucher Households



Source: CBPP analysis of anti-discrimination laws in Poverty & Race Research Action Council, “Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination,” September 14, 2018. Data on vouchers in use from Department of Housing and Urban Development 2017 Picture of Subsidized Households.

Massachusetts enacted the first voucher non-discrimination law in 1971 (as part of a general SOI law).<sup>9</sup> Soon after, five more jurisdictions enacted SOI laws, followed by an additional 20 between 1980 and 2000. SOI laws have surged since 2001, with 50 jurisdictions adding them. Most but not all of these laws include protections for families using vouchers to help pay their rent.<sup>10</sup> (See Appendix A for a list of jurisdictions with current SOI laws that protect voucher holders and Appendix B for all jurisdictions that have ever adopted voucher non-discrimination laws and their date of enactment.)<sup>11</sup> Supported by research and local experiences, momentum for SOI laws appears to be building to help voucher holders access more housing throughout their rental markets. New research from HUD, discussed below, will likely accelerate this trend.

Efforts on a national level to adopt source of income protections have not gained traction in past years.<sup>12</sup> Last year, the American Bar Association adopted a resolution that “urges federal, state, local, tribal, and territorial governments to enact legislation prohibiting discrimination in housing on the basis of lawful source of income.”<sup>13</sup> This resolution may help persuade policymakers and also can guide bill drafting. For example, it includes a definition of “lawful sources of income” that specifically includes voucher holders. Although no current federal laws generally prohibit landlords from discriminating against families that want to use a voucher to help pay the rent, multiple bills recently have been introduced in Congress that would provide protections to all voucher holders.<sup>14</sup>

### **Non-Discrimination Laws Increase Housing Voucher Use**

Several studies have found that voucher holders in areas with voucher non-discrimination protections are more likely to succeed in using their vouchers to lease a unit. A recent large-scale, multi-site HUD study looked at landlord acceptance rates of vouchers as a way to measure differential treatment of renters who use vouchers. The study shows a lower rate of voucher denial in jurisdictions with voucher non-discrimination protections.<sup>15</sup> (See Figure 3.)

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<sup>9</sup> Massachusetts amended its law in 1989 to strengthen the voucher non-discrimination protections after a court ruling limited the scope of the original law.

<sup>10</sup> Often these general laws are interpreted to apply to housing vouchers, but courts have rejected this argument in several cases. The absence of state-level protection in most states, as well as the variation in language across statutes, can minimize the laws’ effectiveness. Tighe, Hatch, and Mead, 2017.

<sup>11</sup> More jurisdictions have adopted source of income laws but are not included in these counts because state or county-level laws superseded them. See Appendix B.

<sup>12</sup> See, e.g., Landlord Accountability Act of 2017 (H.R. 202), introduced by Rep. Velazquez, <https://www.congress.gov/bill/115th-congress/house-bill/202> and Housing Opportunities Made Equal (HOME) Act of 2013 (S. 1242), introduced by Senators Brown, Merkley, Gillibrand, Coons, Harkin, Murray, Blumenthal, Whitehouse, and Boxer, <https://www.congress.gov/bill/113th-congress/senate-bill/1242>.

<sup>13</sup> American Bar Association, “Resolution, August 14-15, 2017.”

<sup>14</sup> Fair Housing Improvement Act of 2018 (S. 3612), introduced by Senators Hatch and Kaine, <https://www.congress.gov/bill/115th-congress/senate-bill/3612>, American Housing and Economic Mobility Act (S. 3503), introduced by Senator Warren, <https://www.congress.gov/bill/115th-congress/senate-bill/3503>, and a companion bill (H.R. 7262) introduced in the House by Reps. Richmond, Cummings, Lee, and Moore <https://www.congress.gov/bill/115th-congress/house-bill/7262>

<sup>15</sup> Cunningham *et al.* The study includes five sites, each of which includes multiple jurisdictions. All jurisdictions in the Washington, D.C. and Newark, New Jersey sites and the city of Philadelphia are covered by voucher non-discrimination laws. The jurisdictions without voucher non-discrimination laws are Bucks County, Pennsylvania (part of the Philadelphia site) and the Los Angeles, California and Fort Worth, Texas sites.

Caution should be used when interpreting the study results, as voucher non-discrimination protections may not be the only explanation for these differences — for example, public housing agency (PHA) management, program rental caps, or the tightness of the local housing market could affect all of these rates, and the authors recommend further research to reach more definitive conclusions. Further, because of the nature of the study, which used testers as a proxy for voucher holders and otherwise similar applicants, the analysis looked only at whether landlords rejected vouchers out of hand and couldn't evaluate further attrition in the process, such as landlord denial before a lease was signed and the housing agency approved a subsidy contract.

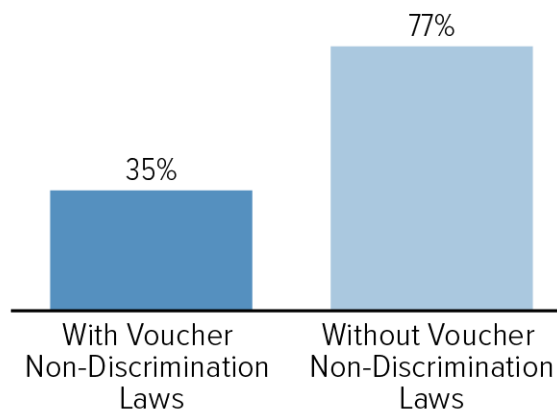
Previous studies support the patterns suggested in the new research. A 2001 HUD study found that voucher recipients in jurisdictions with laws that bar discrimination based on source of income (with or without explicit protections for voucher holders) were 12 percentage points more likely to succeed in using their voucher than those who lived in jurisdictions without such laws.<sup>16</sup>

Voucher non-discrimination laws also appear to help state and local housing agencies use more of the vouchers they administer. (See box, below.) Public housing agencies in jurisdictions with laws banning source of income discrimination had voucher utilization rates five to 12 percentage points higher than those without the laws, research has found.<sup>17</sup> Based on these results, a PHA with 10,000 vouchers served an additional 500 to 1,200 families with their available funds because of source of income protections, researchers estimate.<sup>18</sup>

FIGURE 3

## Fewer Landlords Reject Vouchers in Areas Blocking Voucher Discrimination

Percentage of landlord rejections



Note: The jurisdictions in the study with voucher non-discrimination laws are Washington, D.C. and Montgomery County, Maryland; Newark and four nearby counties in New Jersey; and the city of Philadelphia. The jurisdictions without voucher non-discrimination laws are Los Angeles County, California (excluding 13 small cities); Fort Worth and Arlington, Texas; and Bucks County, Pennsylvania.

Source: Mary Cunningham et al., “A Pilot Study of Landlord Acceptance of Housing Choice Vouchers,” U.S. Department of Housing and Urban Development, September 2018 and additional data provided by the authors.

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<sup>16</sup> Meryl Finkel and Larry L. Buron, “Study on Section 8 Voucher Success Rates: Volume I Quantitative Study of Success Rates in Metropolitan Areas,” Abt Associates for HUD, November 2001, <https://www.huduser.gov/publications/pdf/sec8success.pdf>. However, this study’s methodology did not clearly establish whether the enactment of the SOI protections led to improved voucher success rates.

<sup>17</sup> Lance Freeman, “The impact of source of income laws on voucher utilization,” *Housing Policy Debate*, March 2012, pp. 297-318. The utilization rate described in Freeman’s paper is the total number of leased units divided by the total number of contracted units under a PHA’s contract with HUD. This measure is not adjusted for the share of contracted units *funded*, as is the case under HUD’s performance measurement system (see text box above), perhaps due to inability to obtain the funding data.

<sup>18</sup> Freeman, 2012.

## Measuring Voucher Program Effectiveness: Utilization and Success Rates

Two interrelated measures — utilization rate and success rate — help shed light on the voucher program's effectiveness.

- *Utilization rate.* Each year, HUD provides each PHA an amount of budget authority to pay rental subsidies to landlords on behalf of participating households. Frequently, PHAs do not have enough funding to use all their authorized vouchers. Recognizing this fact — and the potential trade-off between the adequacy of the rent subsidies vouchers provide and families' rent burdens — HUD defines a PHA's "utilization rate" as either the overall percentage of the annual budget authority spent, or the percentage of authorized vouchers leased, whichever is higher.<sup>a</sup> Neither of these measures considers the number of times a PHA has to issue a voucher to families before one successfully uses it to rent a home. Nationally, the voucher program's utilization rate was 99.9 percent in 2017,<sup>b</sup> which means that nearly all available voucher funds were spent.
- *Success rate.* The voucher success rate captures the share of families issued vouchers that are successful in leasing. Specifically, the success rate is the percent of vouchers issued to families in a year that result in an actual lease with a landlord and a contract between the PHA and the landlord. Even if the housing market and landlord behavior posed minimal barriers to voucher use, the success rate will be lower than the utilization rate, for two reasons: some families issued a voucher will not actively search for a unit or will decide to stay in place even if their unit doesn't meet HCV program standards, and the utilization rate includes subsidies for ongoing program participants as well as for new families that succeed in leasing.

When HUD last studied voucher success rates in 2000, the national voucher success rate for PHAs in metropolitan areas was 69 percent, which means almost seven out of ten families newly issued vouchers were able to lease a unit using their vouchers.<sup>c</sup> The study showed that success rates differed significantly across the country, based on both PHA management and their rental markets: in about 12 percent of PHAs, nine out of ten families successfully used their vouchers, while at the other extreme, in 15 percent of PHAs only about half of families issued vouchers were successful. While these numbers may have shifted over time, there likely remains significant variation in voucher success rates.

Low success rates are frustrating for families and burdensome for PHAs, which typically make an unused voucher available to another family. PHAs usually keep track of their success rate and issue enough vouchers to overcome the number that likely will go unused, which helps ensure that all funded vouchers are leased.

While many factors affect a PHA's voucher success rate, the share of landlords willing to accept vouchers likely is a major one. As this paper details, voucher non-discrimination laws can be an effective way to address landlords' refusal to rent to voucher holders, which can help improve program success and utilization rates.

<sup>a</sup> See 24 C.F.R. §985.3(n).

<sup>b</sup> CBPP analysis of Voucher Management System and other HUD data.

<sup>c</sup> Prior to this 2001 study, HUD assessed success rates in the mid-1980s, which showed a success rate of 69 percent, and the early 1990s, which showed a success rate of 81 percent. Meryl Finkel and Larry L. Buron, "Study on Section 8 Voucher Success Rates: Volume I Quantitative Study of Success Rates in Metropolitan Areas," Abt Associates for HUD, November 2001, <https://www.huduser.gov/publications/pdf/sec8success.pdf>.

## Research Mixed on Whether Non-Discrimination Laws Help Voucher Holders Access Higher-Opportunity Neighborhoods

Landlords in low-poverty areas may be more willing to participate in the voucher program in jurisdictions with voucher non-discrimination laws as compared to those without them, but the research is both modest and mixed. The recent HUD study on landlord rejection of vouchers shows there may be a relationship between increased voucher acceptance in low-poverty neighborhoods with voucher non-discrimination laws, but only in some, not all, jurisdictions with them.<sup>19</sup> Earlier research found that after source of income laws are adopted, voucher holders live in neighborhoods with only slightly lower poverty levels than before they were adopted.<sup>20</sup>

TABLE 1

### Voucher Non-Discrimination Laws May Lower Voucher Denial Rate in Low-Poverty Neighborhoods

	Sites With Voucher Non-Discrimination Laws		Hybrid Site	Sites Without Voucher Non-Discrimination Laws	
	Washington, D.C.	Newark	Philadelphia	Los Angeles	Fort Worth
<b>Overall voucher denial rate</b>	14.8	30.9	66.8	76.4	78.0
<b>Low-poverty denial rate</b>	16.2	37.7	82.5	81.5	85.0

Note: The study includes five sites, each of which includes multiple jurisdictions. The sites with voucher non-discrimination laws are Washington, D.C., and Newark, New Jersey. The sites without voucher non-discrimination laws are Los Angeles, California, and Fort Worth, Texas. The “Hybrid Site” refers to Philadelphia, because the city of Philadelphia has a non-discrimination law, while Bucks County, Pennsylvania, does not. “Low poverty” is defined as census tracts with poverty rates of less than 10 percent.

Source: Mary Cunningham et al., “A Pilot Study of Landlord Acceptance of Housing Choice Vouchers,” U.S. Department of Housing and Urban Development, September 2018.

Across all five study sites, outright rejection of vouchers by landlords in low-poverty neighborhoods is higher than the overall denial rate, although the low-poverty denial rate largely follows each site’s overall acceptance pattern. (See Table 1.) The Washington, D.C. site stands out for having a denial rate in low-poverty areas that barely differs from the overall low rate in the District and Montgomery County. In Newark, the other site fully covered by a voucher non-discrimination law, there is less than a 7 percentage-point difference in the denial rate in low-poverty neighborhoods and that of all neighborhoods. This suggests that the voucher non-discrimination laws in these two areas may help voucher households access a broad array of neighborhoods.

In Philadelphia, however, the city’s voucher non-discrimination law appears to be widely ignored, and even more so in low-poverty areas. Some two-thirds of the landlords in the Philadelphia site contacted in the pilot study did not accept vouchers, a denial rate only 9.6-11.2 percentage points lower than the two sites with no voucher non-discrimination laws, Fort Worth, Texas and Los Angeles, California. In low-poverty neighborhoods, more than 4 in 5 Philadelphia landlords contacted as part of the study rejected vouchers, about the same very high denial rate as in the Fort Worth and Los Angeles sites.

<sup>20</sup> Lance Freeman and Yunjing Li, “Do Source of Income Anti-Discrimination Laws Facilitate Access to Less Disadvantaged Neighborhoods?” *Housing Studies*, 2014.



The lower rate of landlord denials in low-poverty areas, seen in the metro Washington, D.C. and Newark areas, could significantly improve voucher holders' access to safe areas with strong schools. Additionally, multiple policies can be used in tandem to boost voucher acceptance in low-poverty neighborhoods. For example, Washington, D.C. also uses local subsidy caps that better mirror rents than the metro-wide subsidy caps most jurisdictions use.

But the quite different pattern in Philadelphia suggests that other factors may be critical, as interviews with voucher policy experts and practitioners revealed. Among reasons that may dampen SOI laws' potential impact, interviewees mentioned limited awareness of the law among voucher holders and landlords, lack of enforcement of the law, and deficient management of local voucher programs.

Federal policy in the voucher program and tight rental markets may also be explanations for the inconsistent impact of voucher non-discrimination laws.<sup>21</sup> Moreover, racism and discriminatory public policies have played a central role in the creation and persistence of racially segregated neighborhoods.<sup>22</sup> Overcoming a legacy of residential segregation will take a variety of affirmative efforts, including voucher non-discrimination laws.

## **Experience-Based Recommendations for Effective Voucher Non-Discrimination Policies**

As noted above, voucher policy experts and practitioners at the national, state, and local levels, including advocates and program administrators, shared with us their insights about enacting and implementing voucher non-discrimination laws.<sup>23</sup> We selected interview participants to represent states, cities, and counties with different political atmospheres, forms of government, and types of voucher non-discrimination protections (or lack thereof).

Although the interviewees had experience with different housing markets and laws, their advice on how to effectively monitor and oversee implementation was largely consistent. And, while jurisdictions followed different paths in pursuing source of income protections and had different outcomes, interviewees provided consistent advice for peers in other jurisdictions that want to pursue voucher non-discrimination protections. Through these conversations, two sets of recommendations emerged regarding (1) how to strengthen existing voucher non-discrimination laws and (2) how to build support for such laws.

### **Strengthening Existing Voucher Non-Discrimination Laws**

Interviewees recommended three primary strategies to increase the effectiveness of existing laws — though they would also require adequate resources to realize their full effect.

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<sup>21</sup> See Sard *et al.*, concerning federal policy changes that could help more families use their vouchers to live in low-poverty, higher-opportunity areas.

<sup>22</sup> Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, Liveright, 2017.

<sup>23</sup> Throughout 2018 we conducted interviews with staff of national and local organizations. A full listing of the organizations participating in the interviews is included in Appendix C.

### *Ensure Effective Administrative Enforcement*

Experts agreed that there must be ongoing monitoring and enforcement efforts for a voucher non-discrimination law to achieve its purpose of expanding housing choice. Ideally the law would identify the administrative agency responsible for these activities and provide it with the authority and resources it needs for such work, such as testers, administrative complaint mechanisms, and hearing officers. Jurisdictions with non-discrimination laws that do not identify an agency or provide for resources may want to consider their options for ensuring administrative enforcement through existing agencies and resources or revisit the law to specify how it will be enforced and to add resources for this purpose.

The agency tasked with enforcing the voucher non-discrimination legislation should have adequate funds to:

- Repeatedly inform HCV participants and all landlords of the law's requirements;
- Work closely with local voucher administrators to encourage reporting of violations;
- Collect, investigate, and remedy complaints;
- Perform regular testing to ensure compliance;<sup>24</sup> and
- Report publicly on the number of complaints and resolutions, testing results, and the overall effectiveness of the law's implementation, and make recommendations for improvements if necessary.

The state or local administrative agency that oversees fair housing complaints is also tasked with ensuring compliance with voucher non-discrimination laws, most interviewees whose jurisdictions have such laws indicated. Fair housing agencies are separate from the agencies that administer HCVs, which may have more information on landlord denials than the enforcement agency. However, most PHAs lack resources to follow up with landlords on apparent non-compliance with voucher non-discrimination laws, and do not necessarily share information about voucher discrimination with the fair housing agency. Some regions have organized regular roundtables among PHAs, administrative enforcement entities, and housing advocates to boost information sharing.

Jurisdictions could also consider administrative penalties, such as those Washington State recently adopted. If landlords violate Washington's source of income law, they can be held responsible for more than four times the monthly rent, as well as court costs and attorney fees.<sup>25</sup>

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<sup>24</sup> The recent HUD report on landlord acceptance of vouchers identifies some strategies for effective testing of voucher non-discrimination compliance including training testers on voucher program rules and conducting in-person testing. It also includes a variety of sample forms that can be used for testing.

<sup>25</sup> Washington State House Bill 2578, Housing – Source of Income, 2018, <http://lawfilesexxt.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2578-S2.SL.pdf#page=1>.

### *Establish a Broad Advisory Group Providing Oversight of Implementation*

Jurisdictions should consider establishing a broad advisory committee tasked with monitoring the implementation and effectiveness of the voucher non-discrimination law. Ideally the SOI law would require the oversight body, but the committee probably could be established after enactment. The committee should include representatives of landlords, tenants, housing agencies, fair housing groups, and advocates.<sup>26</sup> The group should meet regularly to review data from the enforcement agency and develop strategies to increase the law's effectiveness if necessary.

Such strategies could include campaigns to increase awareness of the law and encourage landlords to comply, and region-wide efforts to enhance opportunities for families with vouchers that want to move to low-poverty neighborhoods.

### *Engage in Ongoing Communications With Landlords and Voucher Holders*

Housing agencies, advocates, and the enforcement agency should play a key role in ongoing, repeated communication about the law's requirements to landlords and voucher holders. Outreach to landlords is especially important because many may not be aware of the law and would be more likely to rent to tenants using vouchers if they knew about it.

Local PHAs should offer regular trainings to landlord groups on the law as well as the advantages of participating in the HCV program. They should also regularly inform their voucher holders and staff about voucher non-discrimination protections and how to report any violations.

Two jurisdictions offer promising examples of how to undertake these communications. In Oregon, a local foundation created materials and videos for landlords on the requirements of the state's law. Advocates and legal services attorneys also conducted trainings for landlords. And the Cook County, Illinois housing authority provides materials to families at mandatory briefings that describe local source of income protections and how to report discrimination.

## **Voucher Non-Discrimination Laws Can Address the Needs and Concerns of Communities and Landlords**

Momentum for passing source of income protections has risen over the past two decades. As jurisdictions consider adopting their own voucher non-discrimination laws, they should build on the lessons learned from experienced localities. For example, the law should explicitly prohibit voucher discrimination (rather than assuming that it is implicit in "source of income") and should include enforcement mechanisms, as discussed above.<sup>27</sup> Additionally, policymakers can further strengthen

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<sup>26</sup> Oregon has a Housing Choice Voucher advisory committee that advises the state housing agency on best practices, works to increase landlord participation and monitors a local fund to incentivize landlords to participate. In the Chicago metro area, groups meet regularly to devise strategies for increasing locational opportunities for voucher holders and increasing awareness of existing source of income protections.

<sup>27</sup> Tighe, Hatch, and Mead, 2017.

existing protections by explicitly prohibiting landlords from setting a minimum income requirement based on the entire rent, as opposed to the tenant's portion of the rent.<sup>28</sup>

It is particularly important to educate policymakers and interested stakeholders about the challenges families face in using vouchers and how a voucher non-discrimination law could make a difference. Families who received vouchers but were unable to use them can provide valuable first-hand information about the challenges they faced and how the inability to use their vouchers impacted their lives. For example, if a jurisdiction is focused on ending veterans' homelessness, working with veterans' groups to identify veterans who have been unable to use a voucher could be persuasive to policymakers. Assistance from state and local PHAs to provide data on voucher success rates can validate the challenges that voucher holders face.

Across all jurisdictions interviewed, landlord opposition was one of the primary challenges to enacting voucher protections. Some landlords — or policymakers — may have a negative perception of their local housing agency's performance or of voucher holders, which could make it less likely that they'd support voucher non-discrimination protections. In some cases, PHAs need to improve their operations to encourage more landlords to participate.<sup>29</sup> In other cases, perception is not reality and effective communication can help alleviate landlords' concerns by correcting misconceptions about how accepting housing vouchers would affect their usual business practices.

It is important to reinforce to landlords and legislators that:

- **Landlords can use their regular screening criteria regarding tenant history.** Although landlords cannot refuse to rent to a voucher holder solely because of their source of income under voucher non-discrimination laws, they are not required to accept all voucher holders regardless of other considerations. Some landlords mistakenly believe that voucher non-discrimination laws require them to rent to any voucher holder, without regard to their criminal background or credit history. Under these laws, landlords can continue to apply their usual background screening criteria; they just cannot refuse to accept tenants based on their use of a voucher to help pay their rent.
- **Landlords can charge security deposits.** One common misconception of the voucher program is that landlords are not allowed to charge voucher holders security deposits. Though this was true before the mid-1990s, HUD changed the rules in 1994 to let landlords charge

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<sup>28</sup> Washington State included language in its new law to address income requirements. If a landlord requires that a prospective tenant or current tenant have a certain threshold level of income, any source of income in the form of a rent voucher or subsidy must be subtracted from the total of the monthly rent prior to calculating whether the tenant meets the income criteria. The recent HUD report on landlord acceptance of vouchers found that landlords in jurisdictions with voucher non-discrimination protections often imposed minimum income requirements.

<sup>29</sup> A network of over 2,100 local agencies administers more than 2.2 million vouchers under contract with HUD. Size, funding, staffing, capacity, and performance vary widely among the agencies. A recent HUD research report explores the experiences of landlords with the voucher program across three different rental markets. Philip Garboden *et al.*, "Urban Landlords and the Housing Choice Voucher Program: A Research Report," Department of Housing and Urban Development, May 2018, <https://www.huduser.gov/portal/sites/default/files/pdf/Urban-Landlords-HCV-Program.pdf>.

security deposits to voucher holders as long as they are similar to deposits charged to other renters.<sup>30</sup>

- **Rent payments are reliable.** Landlords may express concerns that tenants will not make their rent payments or will not pay in a timely manner. In the HCV program, however, a large portion of the payment (typically about 70 percent) comes directly from the PHA. This is usually through electronic direct deposit and reliably arrives by the first business day of the month. Program rules also provide incentives for voucher holders to make timely rent payments as further described below.
- **Landlords can charge their regular rents.** Landlords may be concerned that the voucher program does not pay market rates for units. This concern can be addressed in two ways. First, an SOI law doesn't require landlords to alter the rent they regularly charge to tenants without vouchers. They will not violate the law if the rent charged is above the level a voucher tenant is permitted to pay.<sup>31</sup>

Second, housing agencies in any metropolitan area can adopt maximum subsidy levels based on prevailing rates in each zip code, known as Small Area Fair Market Rents (SAFMRs), which better mirror local rental markets.<sup>32</sup> Adopting source of income laws could be particularly important in the 24 metro areas where HUD now requires housing agencies to implement SAFMRs and other areas that choose to adopt them. The combination of these two policies likely will increase the number of landlords renting to voucher holders in low-poverty areas, helping to achieve a key goal of the SAFMR policy. In areas where low rental vacancy rates make it more challenging to use vouchers, the combination of these policies can reduce the likelihood that voucher holders disproportionately lose out in the “musical chairs” race for units.

- **Voucher holders have incentives to maintain their unit and pay rent on time.** Some landlords believe that voucher holders are not good tenants, will damage the unit, and not pay rent reliably. But voucher holders have strong incentives built into the program to be good tenants. Many waited years to receive rental assistance, which only reaches 1 in 4 eligible families.<sup>33</sup> They know they could lose their subsidy if they damage the unit, do not pay rent on time, or are evicted for a similar reason. If explaining program policies doesn't succeed in

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<sup>30</sup> See 24 C.F.R. § 982.313.

<sup>31</sup> Housing voucher subsidies are capped based on fair market rents (FMRs) that HUD estimates each year for modest housing units in a geographic area. A family with a voucher pays about 30 percent of its income for rent and utilities, and the voucher covers the remainder up to a payment standard set by the state or local housing agency. The payment standard generally must be within 10 percent of the FMR, although agencies may set higher or lower standards if they meet certain criteria and get HUD approval. Families may rent reasonably priced units above the payment standard, but they must pay the extra rent themselves, on top of the 30 percent of their income they would otherwise pay. When newly renting a unit with a voucher, a family may not pay more than 40 percent of income (after certain deductions).

<sup>32</sup> Center on Budget and Policy Priorities and Poverty and Race Research Action Council, “A Guide to Small Area Fair Market Rents (SAFMR),” May 4, 2018, <https://www.cbpp.org/research/housing/a-guide-to-small-area-fair-market-rents-safmrs>.

<sup>33</sup> Center on Budget and Policy Priorities, “Three Out of Four Low-Income Renters Do Not Receive Federal Rental Assistance,” August 2017, <https://www.cbpp.org/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance>.

assuaging landlords' concerns, the law can include damage mitigation funds for landlords that participate in the voucher program.

At least two states, Oregon and Washington, have included these as part of their recent voucher non-discrimination legislation. To build support for the SOI law in Oregon, policymakers included a landlord guarantee program that would compensate landlords for property damages or unpaid rent, in an amount up to \$5,000. Landlords have drawn upon the fund only a handful of times in five years. Washington State also created a landlord mitigation program that pays up to \$5,000 for unpaid rent and damages beyond normal wear and tear.<sup>34</sup>

- **Some administrative burdens, such as inspections, may cause leasing delays but are important to ensure safety of units.** Landlords may raise the concern that waiting for a PHA to inspect a unit and process required paperwork leaves a unit vacant longer than if they rented to a market-rate tenant. There may be validity to this claim, but unit inspections ensure the safety of rental units and policymakers are unlikely to be persuaded that safety inspections should not be required for government subsidies. Additionally, recent changes to federal policy will reduce time delays and some inspection-related administrative burdens.<sup>35</sup>

Landlord incentives are another way to address landlord concerns and to make voucher non-discrimination laws more effective at encouraging participation by landlords in high-opportunity areas. For example, Illinois uses a tax abatement to encourage landlords in low-poverty areas to participate in the voucher program.<sup>36</sup> Practitioners in the Chicago metro area, which has voucher non-discrimination protections, report that this abatement helps increase the number of landlords in higher-opportunity areas that accept vouchers. Virginia also has a similar income tax credit program that provides credits to landlords that rent to voucher families in low-poverty areas in the greater Richmond/Petersburg area.

## State Action an Important Building Block to Federal Policy Change

Only 34 percent of households with housing vouchers live in jurisdictions with protections against discrimination by landlords, despite the growing body of evidence indicating that such laws substantially increase the program's effectiveness. More states and localities should enact such laws.

In addition to helping hundreds of thousands of families more effectively use vouchers, state and local voucher non-discrimination laws are building blocks to understanding how to effectively adopt

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<sup>34</sup> Funds from document recording fees are used for the landlord fund. These fees also help fund the administration of the program. Washington State House Bill 2578, Housing – Source of Income, 2018, <http://lawfilesexxt.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2578-S2.SL.pdf#page=1>.

<sup>35</sup> Some components of the Housing Opportunity through Modernization Act (HOTMA), Public Law 114-201, enacted in July 2016, are designed to reduce burdens for administering agencies and landlords, especially for required inspections before a unit can be leased. HUD initially implemented these provisions narrowly. In upcoming regulations, HUD should provide agencies with sufficient flexibility to encourage them to make use of new statutory tools to speed up initial occupancy and ensure that landlords don't lose rent due to inspection delays.

<sup>36</sup> While Illinois does not have statewide SOI protections, in 2004 the legislature established a tax abatement to encourage owners in low-poverty neighborhoods to rent to HCV holders, and it renewed the law in 2014. The law provides property owners with a property tax abatement up to 19 percent of its assessment if the landlord rents to a voucher holder in a low-poverty census tract. The state reimburses localities for the loss of property tax revenue. Cook County and the city of Chicago both have SOI protections and this tax abatement complements their efforts to help HCV holders use their vouchers in low-poverty, low-crime neighborhoods.

and implement protections for voucher holders. As such laws become more widespread and more rental property owners become familiar with the HCV program — and where needed, local program administration improves to address landlords' legitimate concerns — political support at the national level also is likely to rise. A broadly applicable federal non-discrimination policy is critical to ensuring more consistent tenant protections, because it's unlikely that all states will adopt a voucher non-discrimination law.

## Appendix A: Jurisdictions With Source of Income Laws That Protect Voucher Holders

TABLE 1

### State-Level Voucher Non-Discrimination Laws

State	Number of Voucher Households Covered (2017)
Connecticut	37,288
Maine	11,749
Massachusetts	84,071
New Jersey	69,244
North Dakota	6,336
Oklahoma	22,745
Oregon	33,370
Utah	10,804
Vermont	6,569
Washington	53,271
Washington, D.C.	12,186

TABLE 2

### County-Level Voucher Non-Discrimination Laws

County	State	Number of Voucher Households Covered (2017)
Marin County	California	2,072
Santa Clara County	California	15,316
Denver County and City	Colorado	6,830
Miami-Dade County	Florida	22,978
Broward County	Florida	11,036
Cook County	Illinois	62,744
Montgomery County	Maryland	7,058
Howard County	Maryland	1,938
Frederick County	Maryland	1,173
Nassau County	New York	4,653
New York City (composed of five boroughs/counties)	New York	126,670
Westchester County	New York	11,670
Suffolk County	New York	8,162
Erie County	New York	11,139
Dane County	Wisconsin	2,626



TABLE 3

**City-Level Voucher Non-Discrimination Laws**

<b>City</b>	<b>State</b>	<b>Number of Voucher Households Covered (2017)</b>
San Francisco	California	9,557
East Palo Alto	California	427
Santa Monica	California	991
Berkeley	California	1,578
San Diego	California	14,498
Woodland	California	431
Wilmington	Delaware	2,764
Marion	Iowa	114
Iowa City	Iowa	901
Urbana	Illinois	535
Chicago	Illinois	Included in Cook County
Naperville	Illinois	418
Annapolis	Maryland	396
Ann Arbor	Michigan	1,080
Lansing	Michigan	2,618
Grand Rapids	Michigan	4,126
East Lansing	Michigan	145
Jackson	Michigan	485
Minneapolis	Minnesota	8,938
St. Louis	Missouri	4,752
Syracuse	New York	4,384
Wickliffe	Ohio	74
University Heights	Ohio	70
Warrensville Heights	Ohio	369
South Euclid	Ohio	234
Philadelphia	Pennsylvania	17,868
Borough of State College	Pennsylvania	141
Pittsburgh	Pennsylvania	8,419

TABLE 3

**City-Level Voucher Non-Discrimination Laws**

City	State	Number of Voucher Households Covered (2017)
Memphis	Tennessee	8,144
Austin	Texas	Under court review
Dallas	Texas	Under court review
Milwaukee	Wisconsin	6,675

Notes: This Appendix shows places included within the PRRAC report with source of income non-discrimination laws that explicitly, or likely, cover voucher non-discrimination. Where the language of the law didn't specifically include or exclude voucher holders, we attempted to confirm how the law is interpreted and applied locally. Local-level voucher non-discrimination laws in the same state or county with a subsequently enacted law are not included in this Appendix or on the map in Figure 1, but are included below in Appendix B. Local or state laws that do not cover voucher holders are not shown on the map or in this Appendix. Dallas and Austin (Texas) laws are under court review and are not included in the overall count of voucher holders, but do appear in this Appendix and on the map. Linndale, Ohio, and Harwood Heights, Illinois, have local laws but we do not show voucher holders' data due to privacy restrictions.

Source: Poverty & Race Research Action Council (PRRAC), "Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program, Appendix B: State, Local, and Federal Laws Barring Source-of-Income Discrimination," September 14, 2018. <https://www.prrac.org/pdf/AppendixB.pdf>; Department of Housing and Urban Development 2017 Picture of Subsidized Households.

**Appendix B: Jurisdictions That Have Adopted Source of Income Laws That Protect Voucher Holders, by Year**

TABLE 4

**Voucher Non-Discrimination Laws by Enacted Date**

State	City/County	Year Enacted
Massachusetts	Statewide	1971, amended in 1989
Maine	Statewide	1975
Illinois	Urbana	1975
Wisconsin	Madison	1977
Michigan	Ann Arbor	1978
New York	West Seneca	1979
Massachusetts	Boston	1980
Pennsylvania	Philadelphia	1980
Washington	Olympia	1980
Oklahoma	Statewide	1985
Michigan	Lansing	1986
Vermont	Statewide	1987
Wisconsin	Dane County	1987
Connecticut	Statewide	1989

TABLE 4

**Voucher Non-Discrimination Laws by Enacted Date**

<b>State</b>	<b>City/County</b>	<b>Year Enacted</b>
Washington	Seattle	1989
Illinois	Chicago	1990
Washington	Bellevue	1990
Maryland	Montgomery County	1991
Massachusetts	Cambridge	1992
Massachusetts	Quincy	1992
Maryland	Howard County	1992
Utah	Statewide	1993
Pennsylvania	Borough of State College	1993
Massachusetts	Revere	1994
Delaware	Wilmington	1998
North Dakota	Statewide	1999
New York	Nassau County	2000
California	East Palo Alto	2000
California	Corte Madera	2000
Illinois	Naperville	2000
Michigan	Grand Rapids	2000
New Jersey	Statewide	2002
Maryland	Frederick	2002
Michigan	East Lansing	2002
Tennessee	Memphis	2002
Washington, D.C.	District-wide	2005
New York	Hamburg	2005
New York	Buffalo	2006
Washington	King County	2006
Maryland	Annapolis	2007
Wisconsin	Sun Prairie	2007
New York	New York City (composed of five boroughs/counties)	2008

TABLE 4

**Voucher Non-Discrimination Laws by Enacted Date**

<b>State</b>	<b>City/County</b>	<b>Year Enacted</b>
Illinois	Harwood Heights	2009
Florida	Miami-Dade County	2009
Maryland	Frederick County	2009
Ohio	Wickliffe	2009
Wisconsin	Cambridge	2010
Washington	Tumwater	2010
Ohio	Linndale	2012
Iowa	Marion	2012
Ohio	University Heights	2012
Washington	Redmond	2012
Ohio	Warrensville Heights	2012
Washington	Kirkland	2013
Oregon	Statewide	2013
Illinois	Cook County	2013
New York	Westchester County	2013
Texas	Austin	2014
New York	Suffolk County	2015
California	Santa Monica	2015
Iowa	Iowa City	2015
Missouri	St. Louis	2015
Ohio	South Euclid	2015
Pennsylvania	Pittsburgh	2015
Washington	Vancouver	2015
Washington	Renton	2016
Texas	Dallas	2016
New York	Syracuse	2016
Washington	Spokane	2017
California	Berkeley	2017

TABLE 4

**Voucher Non-Discrimination Laws by Enacted Date**

<b>State</b>	<b>City/County</b>	<b>Year Enacted</b>
California	Marin County	2017
California	Santa Clara County	2017
Florida	Broward County	2017
Minnesota	Minneapolis	2017
Washington	Statewide	2018
Colorado	Denver City and County	2018
New York	Erie County	2018
California	San Diego	2018
California	Woodland	2018
Michigan	Jackson	2018
Wisconsin	Milwaukee	2018

Notes: All source of income laws passed that included protections for voucher holders are included, whether or not they have been superseded by subsequent laws. Local or state laws that do not cover voucher holders (such as those in California, Delaware, Minnesota, and Wisconsin) are not included here and are not shown on the map. Laws under court review, such as Dallas and Austin, appear in this chart.

Sources: Poverty & Race Research Action Council, "Expanding Choice: Practical Strategies for Building a Successful Housing Mobility Program Appendix B: State, Local, and Federal Laws Barring Source-of Income Discrimination," September 14, 2018, <http://www.prrac.org/pdf/AppendixB.pdf>.

**Appendix C: Organizations Participating in Interviews**

Most of the interviews reflected in this report were conducted in early 2018. We are grateful to the following organizations for sharing their insights:

City of South Euclid, Ohio  
 Coalition on Homelessness and Housing in Ohio  
 Connecticut Fair Housing Center  
 Fair Housing Center for Rights and Research, Ohio  
 Fair Housing Contact Service, Ohio  
 Homeless Persons Representation Project, Baltimore  
 Housing Action New Hampshire  
 Housing Authority of Cook County, Illinois  
 Housing Choice Partners, Chicago  
 Lane County Legal Aid/Oregon Law Center  
 National Housing Law Project  
 Poverty & Race Research Action Council  
 Virginia Poverty Law Center  
 Washington Low Income Housing Alliance  
 Western Center on Law and Poverty, California