



How Fair Housing Programs Can be Bolstered by Laws Prohibiting Source of Income Discrimination

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The Housing Choice Voucher Program, commonly referred to as “Section 8,” is one of the most visible and controversial housing policies in the United States. The program has two key goals: to eliminate concentrations of poverty and the social problems it causes; and to provide low-income households with greater access to higher-opportunity neighborhoods. In contrast to traditional subsidized housing in high-rise apartments or “projects,” the Housing Choice Voucher Program provides recipients a subsidy that, in principle, they can use to help cover the cost of rent anywhere they want to live. For a variety of reasons, however, voucher recipients find themselves unable to move to some of the higher-opportunity neighborhoods they prefer.

A notable reason for this is that local laws in most cities and states do not prevent landlords from discriminating against potential tenants on the grounds of their source of income. In other words, in many places it is perfectly legal for landlords to refuse to rent to Housing Choice Voucher recipients and declare “No Section 8” on rental listings. In this brief, we review key findings from the growing literature on discrimination against voucher recipients and assess the potential for laws to prohibit discrimination based on source of income.

Vouchers as a Tool to Break Up Concentrated Poverty and Increase Opportunities

Does the Housing Choice Voucher Program actually work to increase mobility and break up concentrated poverty? For the most part, studies indicate that vouchers have had only limited success in achieving these goals. Voucher holders are no more likely to live in integrated neighborhoods than non-subsidized tenants. Although many voucher holders end up using their vouchers in moderate-income areas, most do not move far from their previous neighborhoods. Moreover, there are deep racial divides affecting whether households are more or less successful at finding housing in non-poor neighborhoods. Non-white participants are more likely to move to areas of concentrated poverty where they live alongside other voucher holders.

A major cause of such persistent neighborhood poverty concentration is that federal law does not explicitly require landlords to accept Housing Choice Vouchers – and most cities and states do not require acceptance of vouchers either. There is considerable evidence of discrimination against voucher holders, even though subsidized housing residents cause no more problems than market-rate tenants and despite the fact that the units rented to Housing Choice Voucher Program tenants are certified as being up to code and are located near market-rate units and developments. There is little to distinguish properties that do or do not rent to voucher recipients, beyond landlord decisions to refuse potential tenants because of their source of income.

To mitigate this lingering unfairness, advocates have called for additional legal steps.

Possible Legal Solutions

Although discrimination based on source of income is legal in most jurisdictions in the United States, those who receive vouchers are disproportionately members of protected classes under the federal Fair Housing Act and similar state laws that prohibit discrimination based on race, national origin, gender, familial status, disability, and age. Current voucher recipients include 38% adults with children, 21% elderly, 20% disabled adults, 12% childless adults, 8% disabled adults with children, and 1% elderly with children. Families, the elderly, and the disabled are all protected from discrimination under the Fair Housing Act. In practice, therefore, discrimination against people trying to use Housing Choice Vouchers may be illegal because, arguably, members of protected groups are disproportionately harmed.

Legal arguments aside, when voucher recipients sue landlords who refuse to accept their vouchers on the grounds that this creates an unlawful disparate impact on protected classes, these frustrated voucher tenants often struggle to prove their claims. Consequently, such cases have had mixed results for individuals – yet they have still spurred many states and municipalities to reduce the risk of Fair Housing Act violations by adopting new laws banning source of income discrimination against tenants.

Twelve states, Washington D.C., and many local governments now have a source of income anti-discrimination law on the books. Places that prohibit source of income discrimination do so by including it as a protected class in fair housing laws, alongside common categories such as race, sex, religion, and so forth. Such laws not only rule out rental listings that say “No Section 8”; they also provide enforcement mechanisms and avenues for recourse that aggrieved tenants may pursue.

Effectiveness of Laws Barring Source of Income Discrimination

Proponents argue that source of income anti-discrimination laws help the Housing Choice Voucher Program achieve its goals by removing obstacles that keep voucher recipients from moving to preferred neighborhoods. Given the overrepresentation of racial minorities among voucher holders, such laws may also serve as a mechanism for integrating neighborhoods. Indeed, two prominent legal cases alleging that governments in Dallas, Texas, and Westchester County, New York were not doing enough to combat racial segregation reached resolutions when the government defendants agreed to enact laws prohibiting source of income discrimination. Ideally, such anti-discrimination laws could serve both to prevent disparate harms to protected classes of tenants and to decrease overall racial segregation.

Early research suggests that source of income anti-discrimination laws actually do help voucher recipients find preferred places to live and move to better neighborhoods. However, opponents express concerns about distorting rental markets through additional regulation. More research must be done, because evidence supporting any of the conflicting claims remains sparse. Furthermore, while source of income discrimination bans can eliminate some of the barriers low-income tenants face, the effects are likely to be small. Anti-discrimination laws alone cannot instantly eliminate all of the barriers facing these households. Nevertheless, research so far does suggest that outlawing source of income discrimination may improve outcomes for poor voucher holders – and thus help the Housing Choice Voucher Program reach its fundamental goals.

Read more in J. Rosie Tighe, Megan E. Hatch, and Joseph Mead, "**Source of Income Discrimination and Fair Housing Policy.**" *Journal of Planning Literature* (2017).