

Fair Housing Training 2019

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PROGRAMS AND COMPLIANCE

OFFICE OF FAIR HOUSING AND EQUAL OPPORTUNITY

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT



CALL HUD

BECAUSE SEXUAL HARASSMENT IN HOUSING IS ILLEGAL.

1-800-669-9777 / 1-800-877-8339 TTY

WWW.HUD.GOV



Fair Housing
Awareness



HARASSMENT IN HOUSING BASED ON RACE, COLOR, NATIONAL ORIGIN, RELIGION, SEX, DISABILITY, OR FAMILY STATUS IS ILLEGAL. IF YOU BELIEVE YOU'VE EXPERIENCED DISCRIMINATORY HARASSMENT, CONTACT HUD TO REPORT IT.

Valuable fair housing information!

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Fair Housing Act Basics

▶ The Fair Housing Act prohibits discrimination based on:

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



Prohibited Activities

42 U.S.C. 3604(a)

- ▶ Refusing to sell or rent
- ▶ Refusing to negotiate on the sale or rental
- ▶ Otherwise making unavailable
- ▶ Note: 3604(a) & (b) the only sections that do not protect persons with disabilities

Pop Quiz:

Facts: Manger tells a white renter that three one-bedroom units will be available on March 1st. 15 minutes later, the same manager tells a black renter about one unit being available on April 1st.

- ▶ True or false? Would this be a violation of the Fair Housing Act?**

Prohibited Acts

42 U.S.C. 3604(b)

- ▶ Discriminate in the terms, conditions, or privileges of sale or rental of a dwelling
- ▶ Discriminate in the provision of services
- ▶ Discriminate in the facilities connected therewith
- ▶ Example: Prioritizing repair requests for male tenants while neglecting females tenants
- ▶ Example: “Steering” families and singles to different buildings

Pop Quiz:

- ▶ **Facts: Property management company posts rule that nobody under the age of 18 can use the pool without the presence of an adult.**
- ▶ **Would this violate the FH Act?**
- ▶ **What if the age was 16?**
- ▶ **What about adult swim?**

Prohibited Acts

42 U.S.C. 3604(c)

... To make, print or publish or cause to be made printed or published any notice, statement, or advertisement that indicates any preference, limitation, or discrimination

Pop Quiz!

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Does “mature persons” violate the Act?

Does “one-person apartment” violate the Act?

Does “ideal bachelor pad” violate the Act?

Does “no pets” violate the Act?



Pop Quiz:

- ▶ **Facts:**
Advertisement describes the property as seniors only.
- ▶ **Would this violate the Act?**
- ▶ **What if it said 55 and over?**
- ▶ **What if it said 62 and over?**

Prohibited Acts

42 U.S.C. 3604(d)

... To represent that any dwelling is not available for inspection, sale or rental when such dwelling is in fact available

True or False

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Facts: A leasing agent tells a male renter with child about two ground floor units available for rent. The same leasing agent later tells a female renter with no children about units available on the 2nd and 3rd floors.

True or false? This is not a violation of the Fair Housing Act

Prohibited Acts

42 U.S.C. 3604(e)

- ▶ For profit, to induce or attempting to induce any person to sell or rent because of the entry or prospective entry of a protected group into the area
- ▶ Referred to as “Blockbusting”
- ▶ Example: Realtor sent notices to residents announcing the sale of the home. When he spoke to them, he told them that the house was bought by a black family, and opined that blacks do not maintain their homes.

Prohibited Acts

42 U.S.C. 3604(f)(1)

- ▶ To discriminate in the sale or rental
- ▶ Otherwise make unavailable or deny
- ▶ Because of buyer's disability, disability of a household member, or any person associated therewith
- ▶ Example: Housing authority director refused to lease to a disabled tenant because she was "concerned" for his safety.



Prohibited Acts

42 U.S. 3604(f)(2)

- ▶ Discrimination in the terms, conditions, or privileges of sale or rental
- ▶ Provision of services
- ▶ Provision of facilities
- ▶ Because of buyer's disability, disability of a household member, or any person associated therewith
- ▶ Example: A disabled renter is unable to get into the office because the doors are too heavy to open and the leasing office ignores the repair requests to fix the automatic doors.

Prohibited Acts

42 U.S.C. 3604(f)(3)(A)

- ▶ Refusal to grant a request for reasonable modification where such a modification may be necessary to afford a person an equal opportunity to use and enjoy the dwelling
- ▶ Example: Disabled tenant is unable to get into his unit because there is a two-inch step at the doorway. The tenant could request permission to make a reasonable modification by constructing a small ramp

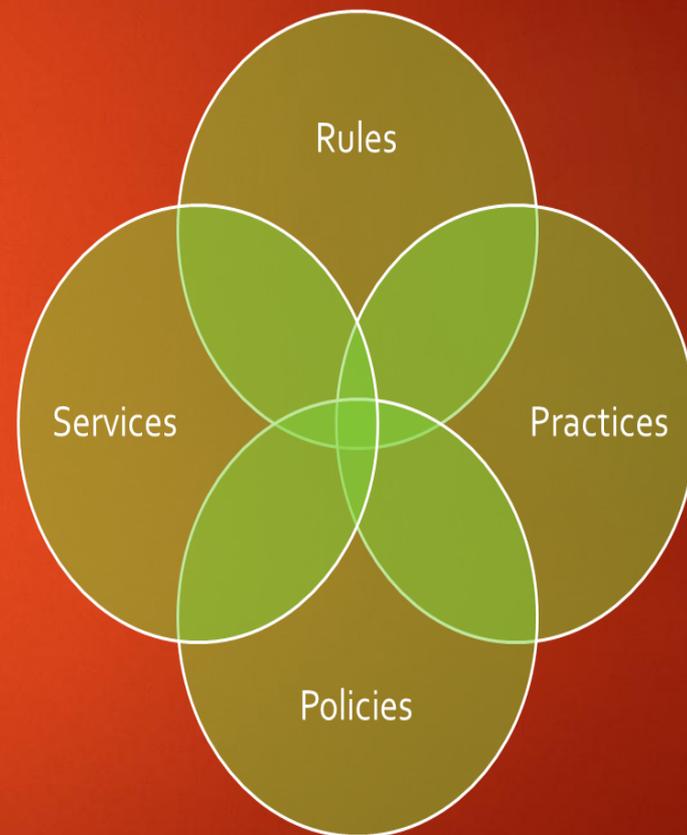
Examples of Modifications

- ▶ Widening doorways
 - ▶ Installing grab bars
 - ▶ Lowering kitchen counters
 - ▶ Adding a ramp to the primary entrance
 - ▶ Altering a walkway to remove steps
 - ▶ Installing a curb cut or curb ramp
 - ▶ Installing disabled parking signs
 - ▶ Lowering peep holes on doors
- Warning: Some modifications may be considered accommodations

Prohibited Acts

42 U.S.C. 3604(f)(3)(B)

- ▶ Refusal to make reasonable accommodations in rules, policies, practices or services when such may be necessary to afford a person an equal opportunity to use and enjoy the dwelling.



Examples of Accommodations:

- ▶ Emotional support or service animals allowed at property with No Pets Policy.
- ▶ Transferring a tenant from 3rd floor to 1st floor
- ▶ Accepting a service animal that exceeds weight restrictions
- ▶ Allowing a tenant to pay when their check arrives instead of on the 1st of the month
- ▶ Accepting an animal that is a restricted breed

Two Prong Analysis for Reasonable Accommodations

1. Does the person seeking the accommodation have a disability that substantially limits one or more major life activities?
2. Will the accommodation ameliorate one or more symptoms of a person's disability?



Documentation of Need

“A HOUSING PROVIDER MAY NOT ORDINARILY INQUIRE AS TO THE NATURE AND SEVERITY OF AN INDIVIDUAL’S DISABILITY. HOWEVER, IN RESPONSE TO A REQUEST FOR A REASONABLE MODIFICATION [OR ACCOMMODATION], A HOUSING PROVIDER MAY REQUEST RELIABLE DISABILITY-RELATED INFORMATION ...”

Documenting Need

When the disability is not disputed and need is not questioned

Documentation is not justified

When the disability is not disputed but the need is questioned

Documentation related to benefit or need is justified

When both the disability and need are questioned

Documentation of both is justified. It's acquisition should be limited to that specifically needed and kept as private as possible

Prohibited Acts

42 U.S.C. 3604(f)(3)(C)

- ▶ Failure to Design & Construct an accessible property
- ▶ Applies to all properties constructed on or after March 13, 1991
- ▶ 7 Basic Requirements



7 Basic Requirements

- ▶ **Req. 1: Accessible entrances and accessible routes**
- ▶ **Req. 2: Accessible and usable public & common use areas**
- ▶ **Req. 3: Usable doors**
- ▶ **Req. 4: Accessible route into and through the covered unit**
- ▶ **Req. 5: Light switches, outlets, thermostats, & other environmental controls**
- ▶ **Req. 6: Reinforced walls for grab bars**
- ▶ **Req. 7: Usable kitchens and bathrooms**

Prohibited Act

42 U.S.C. 3605

- ▶ Covers residential real-estate-related-transactions
- ▶ Includes making or purchasing loans, or providing other financial assistance
- ▶ Selling, brokering or appraising residential real property
- ▶ Example: Realtor owned multiple homes that were sold on a contract for deed basis. It was later found that the buyers were evicted for “missing” payments when they had not. All of the buyers were Hispanics who did not speak English.

Pop Quiz!

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Facts: National Bank offers a refinance program for its mortgagees. Complainant, who is a female on maternity leave, is told she cannot apply for the program until she returns to work.

- ▶ **Question: Is this a violation of the Act?**



Prohibited Acts

42 U.S.C. 3606

- ▶ Unlawful to deny access to or membership or participation in *MLS*, real estate brokers organization or other service, organization or facility related to the business of selling or renting dwellings
- ▶ Unlawful to discriminate against him in the terms or conditions of such access, membership or participation



Prohibited Acts

42 U.S.C. 3617

- ▶ Unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment, or having exercised or enjoyed, or having aided or encouraged another in the exercise or enjoyment of any rights
- ▶ Example: Property manager evicted tenant for stating she thought she was being discriminated against

Pop Quiz:

Facts: Fair Housing group filed discrimination complaint against property and did a press release. Attorney for respondent filed a lawsuit based on various tort actions.

Question: Did the attorney's decision to file the tort action violate the Fair Housing Act?



Prohibited Acts

42 U.S.C. 3631

- ▶ **Whoever, whether or not acting under color of law, by force or threat, willfully injures, intimidates, or interferes with, or attempts to injure, intimidate or interfere with their rights ...**
- ▶ **Homeowner reported neighbor for harassment under the Act. Neighbor's brother showed up and made threats that included physical violence and/or death. Case was referred to U.S. DOJ.**

Resources

- ▶ <http://www.justice.gov/crt/housing/title8.php>
- ▶ http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?sid=9a0e69daa9bd0b9aafc0cdfc4e861ab8&c=ecfr&tpl=/ecfrbrowse/Title24/24cfrv1_02.tpl#100
- ▶ http://www.hud.gov/offices/ftheo/disabilities/reasonable_modifications_mar08.pdf
- ▶ http://www.justice.gov/crt/housing/jointstatement_ra.php

How To File A HUD Fair Housing Complaint

- Phone & TDD

- 1-800-743-5323 (Region VII)
- 1-800-669-9777 (National)
- 913-551-6972 (TDD)

- In Person

- Any HUD Office
- Fair Housing Assistance Program (FHAP) Agencies
- Fair Housing Initiatives Program (FHIP) Agencies

- Mail – Internet – Fax – (Region VII)

- HUD/FHEO, 400 State Avenue, Kansas City, KS 66101-2406
- www.hud.gov/offices/fheo
- 913-551-6856 (Kansas City, Kansas Fax Number)

Fair Housing Complaints

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- ▶ The most frequent bases upon which complaints are filed:
 - ▶ Disability
 - ▶ Race
 - ▶ Sex

MERITS OF A COMPLAINT

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- ▶ HUD considers:
 - ▶ Has the Complainant/Respondent produced documents and/or witnesses that substantiate his or her position?
 - ▶ Has the Respondent submitted defenses to each allegation?
 - ▶ Have the Respondent's submitted defenses been fully investigated? Proved? Refuted?
 - ▶ Have any exceptions been made to the policies, procedures or practices? If so, why?

No Reasonable Cause Determinations

- ▶ No merits to the case
- ▶ Failure to comply with lease agreements
- ▶ No witnesses to corroborate statements
- ▶ No documentation to support allegations

Reasonable Cause Determinations

- ▶ **Areas of Inconsistency**
 - ▶ **Reasons for renting/terminations/issuing vouchers/tenant fees**
 - ▶ **Policies (implementation/application)**
 - ▶ **Procedures (implementation/application)**
- ▶ **Poor Record Keeping**
- ▶ **Lack of Fair Housing Knowledge**
- ▶ **Adamant Refusal to Comply with the Fair Housing Act**
- ▶ **Misconceptions of the Fair Housing Act/Amendments**

Closure of Complaints

▶ Administrative

- ▶ Complainant fails to sign Complaint Form
- ▶ Complainant Fails to Cooperate
- ▶ Inability to locate Complainant
- ▶ Inability to locate Sole Respondent
- ▶ Lack of Jurisdiction

▶ Other Reasons

- ▶ Complainant Withdraws Complaint (with or without resolution)
- ▶ Conciliation Agreement between Complainant and Respondent
- ▶ Determination on the Merits of the Case

HUD's Conciliation Process

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- ▶ HUD is required to notify the Complainant and Respondent of the conciliation process.
- ▶ The investigator tries to reach an agreement between Complainant and Respondent.
- ▶ Neither party is required to settle.
- ▶ If conciliation is reached, the Conciliation Agreement is written to protect all parties.

Reasonable Cause

- ▶ HUD issues a Determination stating the facts upon which the determination was made.
- ▶ HUD directs the issuance of a charge on behalf of the aggrieved person, and the charge is served on Respondents.
- ▶ Either party may elect to have the case commence in Federal District Court, with the Department of Justice acting on behalf of the Complainant.
- ▶ If neither party elects to go to Federal District Court, the case will commence before an Administrative Law Judge with the General Counsel from HUD maintaining the action.

No Reasonable Cause

- ▶ HUD issues a Determination stating the facts upon which HUD issued the Determination, dismisses the complaint, and makes public disclosure of the dismissal.
- ▶ If HUD dismisses the complaint as no reasonable cause, the Complainant may still file a private lawsuit in Federal District Court.