

Fair Housing: Families with Children and People with Disabilities

Housing Opportunities
Made Equal of Greater
Cincinnati

513-721-4663

2017



Agenda

- ◆ Purpose and Objectives of Training
- ◆ What is Fair Housing and Why It's Important
- ◆ Overview of Federal, State, Local Laws
- ◆ Update of HUD Ruling/Changes
- ◆ Understanding Familial Status
- ◆ Understanding People with Disabilities
- ◆ Review of Materials in Training Packet



What Is Fair Housing?

- ◆ Definition: Fair housing is the right of all persons to apply for and be considered for the housing of their choice in the community that they choose and that they can afford.
- ◆ Government Policy: “It is the policy of the United States government to provide within constitutional limitations, for fair housing throughout the country. No person shall be discriminated against because of race, color, religion, sex, national origin, disability or familial status.”



Fair Housing and Equal Access

- ◆ Fair Housing Laws guarantee that everyone living in the USA has equal access to housing.
- ◆ Equal access allows people to decide where they want to live.
- ◆ Denial of housing choice also denies people access to other desirable amenities, such as proximity to schools, parks, or public transportation.



Major Fair Housing Laws

The first two laws below protect the rights of people with disabilities to keep and house assistance animals in rental properties.

- ◆ **Fair Housing Act**
 - Prohibits housing discrimination against people because of race, color, religion, national origin, sex, disability, familial status. Passed in 1968, added disability in 1988 amendment.
- ◆ **Section 504 of the Rehabilitation Act of 1973**
 - Applies to housing subsidized with federal funds
 - Prohibits discrimination based on disability in any program or activity.
- ◆ **American with Disabilities Act**
 - Does not apply to residential housing. Title III covers public and common use areas open to the public (Rental office) or when used by the general public (community room rented to non residents).



The Fair Housing Act

Protected Classes Under the FHA

Race (Ethnicity)

Color (Skin color/tone)

Sex (Gender: male/female)

Religion (Religious Beliefs or membership in a religious group)

National Origin (Person's Country of origin or their ancestors)

Disability (1) Anyone with a physical/mental impairment that substantially limits one or more major life activities; (2) Anyone having a record of having impairment (3) Being regarded as having such an impairment.

Familial Status An adult 18 or older, with children 17 and under. Includes: pregnant women; a parent/adult with legal custody of children or seeking custody ; single heads of household.

Where do these Laws Apply?

Types of Housing:

- ◆ Houses
- ◆ Apartments
- ◆ Condos
- ◆ Mobile Homes
- ◆ Dorms
- ◆ Nursing Homes
- ◆ Emergency Shelters
- ◆ Transitional Housing
- ◆ Extended Stay Hotels
- ◆ Subsidized Housing

(Public Housing/Project Based/voucher Program)

Types of Housing Providers:

- ◆ Landlords
- ◆ Apartment Agents/Managers
- ◆ Real Estate Agents
- ◆ Condo Association Managers
- ◆ Builders, Developers
- ◆ Lenders
- ◆ Insurers and Agents
- ◆ Advertising Media
- ◆ Multiple Limiting Services





The ADA and FHA

Difference between the ADA and the FHA:

ADA

- Covers offices, stores, public and commercial facilities and actions by governments.
- Requires reasonable accommodations (relating to policies and practices) or modifications (relating to physical structures).
- Covers the use of service animals primarily in public spaces and defines the animals very specifically.

FHA

- *Covers dwellings, places where people live.
- *Requires reasonable accommodations (relating to policies and practices) or modifications (relating to physical structures).
- *Allows assistance animals for reasonable accommodations in housing and offers a broader definition.

Discrimination Based on National Origin

- ◆ The Fair Housing Act prohibits discrimination based on **national origin**.
- ◆ Discrimination is prohibited based either upon the country of an individual's birth or from where his or her ancestors originated.

Common issues:

- Limited English proficiency
- Citizenship, legal resident, and immigration



Familial Status

- ◆ Persons under the age of 18 living with:
 - A parent or legal custodian
 - The designee of a parent or custodian with written permission
- ◆ Pregnant women
- ◆ Persons in the process of securing legal custody





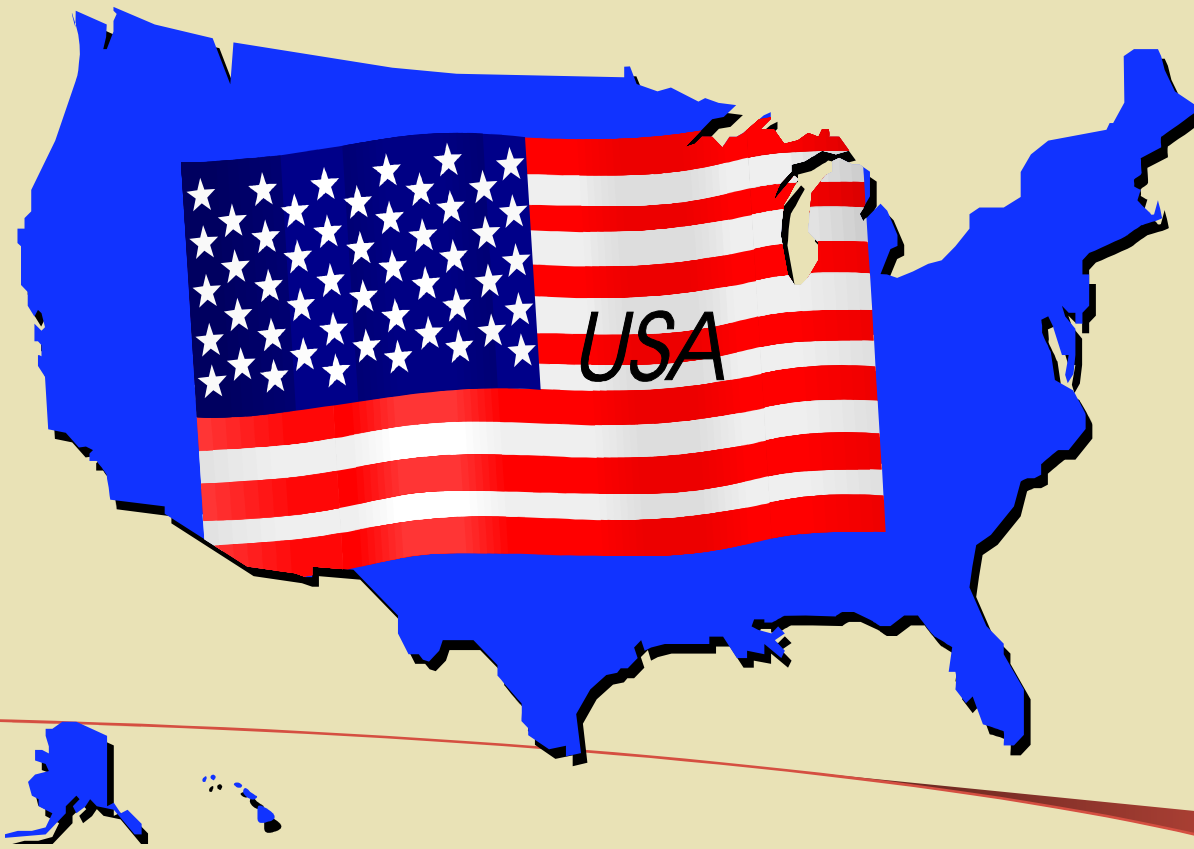
Discrimination Based on Familial Status

- ◆ The Fair Housing Act prohibits discrimination in housing against **families with children** under 18.
- ◆ This means it is unlawful to:
 - Outright deny housing to families with children
 - Impose any special requirements or conditions on tenants with children

For example, a landlord may not:

- Locate families with children in any single portion of a complex
- Place an unreasonable restriction on the total number of persons who may reside in a dwelling
- Limit their access to recreational services provided to other tenants

NO NATIONAL OCCUPANCY POLICY





Familial Status:
OCCUPANCY STANDARDS

**adopt reasonable
occupancy standards**



**to limit the number of
persons who can
reside in a unit**



Familial Status: OCCUPANCY STANDARDS

**adopt occupancy standards
(1) to exclude families
with children.**



NO

**(2) unreasonably limit
the ability of families
with children to obtain
housing.**



Occupancy Scenario

Policy states:

- ◆ Two persons per bedroom
- ◆ Studios – 1 person
- ◆ Children over the Age of 5 of the opposite sex must have separate bedrooms.
- ◆ Children and parents cannot share rooms
- ◆ What's wrong?



Fair Housing Unlawful Activity

- ◆ Failure to rent or sell a dwelling when a bona fide offer has been made, where the refusal is based on one of the protected classes
- ◆ Discriminatory Terms and Conditions
- ◆ Discriminatory Advertising
- ◆ Falsely Denying Housing is Available



H.U.D. Rulings Under FHA

- ◆ **2012- Equal Access Rule**
- ◆ **2013- Assistance Animals & Reasonable Accommodations**
- ◆ **2016- Affirmatively Furthering Fair Housing**
- ◆ **2016- Criminal Record Policies**
- ◆ **2016- Victims of Harassment/Survivors of Domestic Violence**

Fair Housing

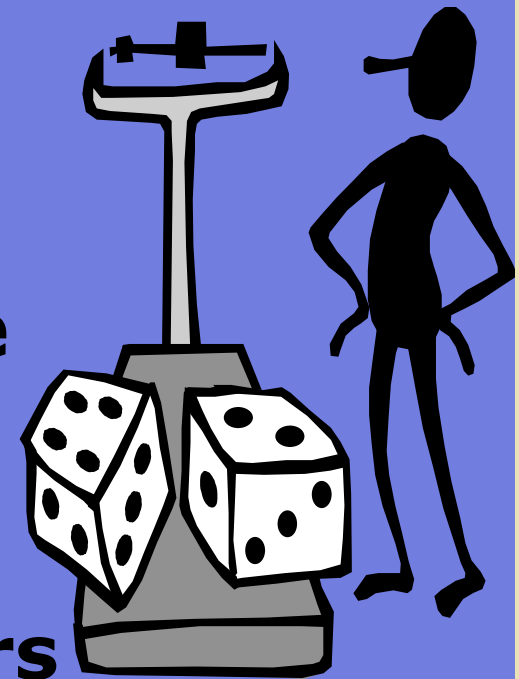
What is Allowed?

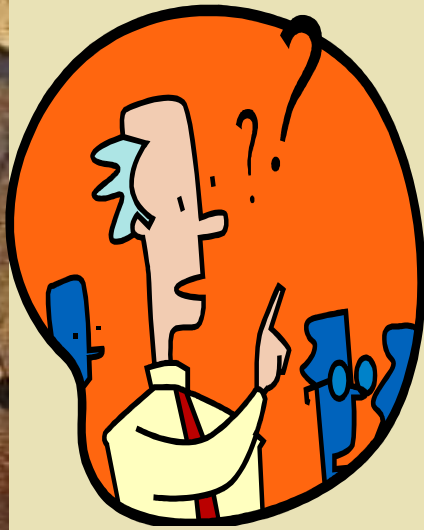


Essential Terms of Tenancy

Meeting terms Of the lease

- 1) Pay the rent on time**
- 2) Maintain the unit**
- 3) Obey the rules**
- 4) Get along with others**





Applicant Inquiries

- **Make Policies Clear**
- **Apply Them Consistently To All Applicants**





Definition of a Person with Disability

- ◆ A person who has a physical or mental impairment that substantially limits one or more major life activity, has a record of such an impairment, or regarded as having such impairment.
- ◆ Doesn't include - Current drug and alcohol abuse.

Persons with Disabilities

Major Life Activities:

- ❖ Seeing
- ❖ Walking
- ❖ Learning
- ❖ Performing Manual Tasks

Hearing
Breathing
Speaking
Taking Care
of one's Self



Rights of Disabled Applicants and Residents

**REASONABLE ACCOMMODATIONS
&
REASONABLE MODIFICATIONS**





Reasonable Accommodations

- ◆ A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.



Requesting an Accommodation

- ◆ A reasonable accommodation must be requested.
- ◆ Requests can be made at any time, by person with disability, family member or by someone else who is acting on their behalf.
- ◆ A request does not have to be in writing it can be orally or by any other effective method.
- ◆ Housing provider should place request in writing and document outcome.

Applying the principles ...

- **An oral request is enough – A written request may not be required.**
- **The process should be quick and easy and should involve determining the answers to two questions:**
 - 1.) **Does the requester have a disability?**
 - 2.) **Does the requester have a disability-related need for the reasonable accommodation?**
- **Determinations should be made on a case-by-case basis.**



EVALUATING REASONABLE ACCOMMODATION REQUESTS

Housing providers must evaluate all requests for reasonable accommodations by applying the general principals.





Housing Providers Responsibility

Engaging in an interactive dialogue:

It is necessary, when an applicant or a tenant requests an accommodation or modification, to engage in an interactive dialogue. One cannot simply refuse a request for a reasonable accommodation or modification. The interactive dialogue is an opportunity to become educated about the requester's needs and to find an effective and reasonable solution for the issue at hand.



Verifying Reasonable Accommodations

- ◆ May request documentation of the need – only to extent necessary to verify they have a disability and if the requested accommodation is needed.
- ◆ Apparent vs. non-apparent disability.
- ◆ May not acquire confidential medical records or inquire into the nature or severity of persons disability.



Verifying Reasonable Accommodations

- ◆ Verification of disability and need for accommodation can be from any qualified professional cannot require a medical doctor.
- ◆ The professional can be: medical provider; Health Care provider; professional representing a social service agency; disability agency or rehab clinic or any other reliable source who is familiar with the individual and his or her disability related needs.



What is Reasonable?

- ◆ For an accommodation to be reasonable there must be an identifiable relationship or nexus between the requested accommodation and the individual's disability.
- ◆ The requested accommodation should allow the individual with disabilities to use and enjoy the dwelling unit.



What is Reasonable Cont.

- ◆ The requested accommodation must be reasonable:
 - *Does not impose an undue financial and administrative burden on housing provider.
 - *Does not fundamentally alter the nature of the housing providers operations.



Reasonable Modifications

- ◆ An accommodation may require a structural modification to unit or common area.
- ◆ Private investors can require resident to pay for modifications.
- ◆ Federally subsidized recipients are required to make and pay for the modifications.
- ◆ Difference between Fair Housing Act and Section 504 – who pays.
- ◆ Do not always have to approve if would result in undue financial and administrative burden.

Reasonable Accommodation & Modification Examples

- ◆ A tenant with a mental disability is being evicted for violating community rules – request for accommodation to stop eviction to allow for time to acquire medical treatment.
- ◆ A tenant becomes disabled and requests installation of a ramp.





Fair Housing:

It's Not an Option

Its the Law!



Post Test Exercise QUESTIONS?

