

# Fair Housing 101: Housing Providers

By Rebecca Griffin, HOME Director of Education

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# HOME

Housing Opportunities Made Equal (HOME) of Greater Cincinnati is a private, non-profit civil rights organization founded in 1968.

HOME's mission is to eliminate unlawful discrimination in housing.

HOME advocates for and helps to enforce housing regulations for all protected classes and promotes stabilized, integrated communities.



THE ROSENTHAL FAMILY  
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INTERACT  
FOR HEALTH



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# About HOME

## Tenant Advocacy

- Ohio Landlord-Tenant Law
- Free Housing mediation services

## Policy Research & Advocacy

- Roadmap for Increasing Black Homeownership
- Property Tax Report
- Policy advocacy, especially at the local level

## Fair Housing Enforcement (PEI)

- Fair Housing Testing Program
- Investigations and administrative/legal filings

## Education and Outreach (EOI)

- Training for consumers, advocates & housing providers
- Outreach for vulnerable populations

# Disclaimers

Any information or content provided by HOME is for educational purposes only and should not be construed as legal advice or a substitute for legal counsel.

*I am an educator and advocate, not an attorney.*

**Content Warning: Discrimination is harmful and should make you uncomfortable; that won't prevent us from talking about it.**

The work behind this publication and related trainings was supported by funding under a grant with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. HOME is solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Federal Government.

# The Fair Housing Act

Understanding Our History and Our Rights



←900 N

Martin Luther  
King Jr. Blvd.

# RACE & REDLINING

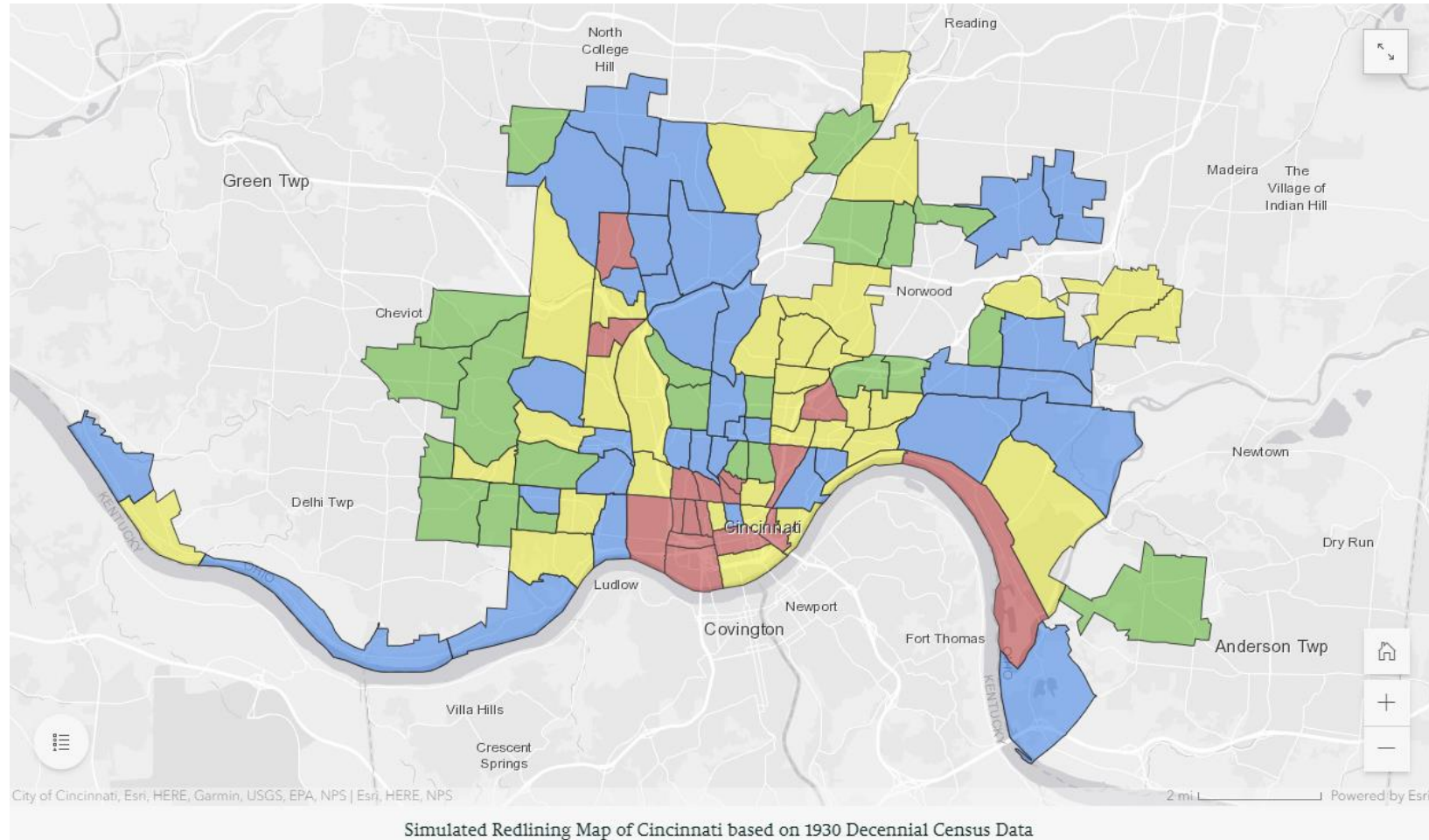
Housing segregation in everything

n p r



# Cincinnati's Redlining

[Redlining in Cincinnati: Effects on Black Well Being \(arcgis.com\)](https://arcgis.com)



# Why Fair Housing?

- Upholding Civil Rights
- Ensuring Equal Access to Housing
- Combatting Legacy of Legal Discrimination, Segregation & Redlining
- Protecting Vulnerable Populations
- Promoting Diversity and Inclusion
- Promoting **Healthy People**
  - Environmental Hazards such as Lead\*

What's your WHY?

## Social Determinants of Health



Social Determinants of Health  
Copyright-free

Healthy People 2030



# The Fair Housing Act

- Title VIII-IX of the Civil Rights Act of 1968
- Passed in response to protests following MLK assassination and signed into law April 11, 1968, by President Johnson
- Made it unlawful to discriminate in housing and housing related transactions because of **RACE, COLOR, NATIONAL ORIGIN,** and **RELIGION.**
  - Amended in 1974 to add **SEX** protection
  - Amended in 1988 to protect families with children (**FAMILIAL STATUS**) and people with disabilities (**DISABILITY STATUS**)

# Fair Housing “Protected Classes” 2024

**RACE**

All races

**COLOR**

All skin colors

**NATIONAL ORIGIN**

All national origins

**RELIGION**

All religions

**SEX**

All sexes, genders, orientations & expressions

**FAMILIAL STATUS**

Refers to presence of children under age 18

**DISABILITY STATUS**

Refers to current, past, or perceived disability

# Fair Housing By Location

## National

- Race
- Color
- Religion
- National origin
- Sex
- Familial status
- Disability

## Ohio

- Ancestry
- Military status

## Cincinnati

- natural hair types and natural hair styles commonly associated with race;
- sexual orientation and gender identity or expression;
- age;
- military status;
- marital status;
- Appalachian origin
- Source of income



# Fair Housing Scope

OHIO DOES NOT PROVIDE  
OWNER OCCUPIED  
EXEMPTIONS

## All Types of Housing Covered:

- Houses
- Apartments
- Condos
- Mobile Homes
- Dorms
- Nursing homes
- Emergency shelters
- Transitional housing
- Extended stay hotels
- **Subsidized Housing**

## Types of Providers Covered:

- Landlords
- Apartment Agents/Managers
- Real Estate Agents/Brokers
- Condo Association Managers
- Condo/HOA Boards & Members
- Builders/Developers/Investors
- Lenders/Insurers/Agents
- Advertising Media/MLS



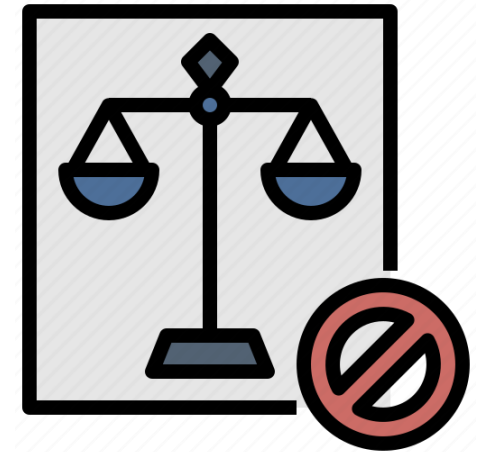
Added legal obligations



# Fair Housing Violations

[Housing Discrimination Under the Fair Housing Act | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

- Refusal to rent or sell housing *based on a protected class*
- Refusal to negotiate *based on protected class*
- Setting different terms, conditions, or privileges *based on protected class*
- Falsely denying that housing is available *based on protected class*
- Showing prospects properties in certain areas or avoiding certain areas *based on a protected class* (steering)
- Denying any person access to, membership or participation in, any organization, facility or service in a housing-related transaction *due to a protected class*
- Advertising using language that is considered discriminatory toward *members of a protected class*



# Fair Housing Enforcement

Fair housing complaints can be filed with administrative agencies (within one year) or in court (within two years).



[File a Fair Housing Discrimination Complaint/U.S. Department of Housing and Urban Development \(HUD\) | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)



[Filing a Charge | Ohio Civil Rights Commission](#)

# Housing Discrimination Data

Complaint Data by Basis and Agency in 2023



	Race	Disability	Familial Status	Sex	National Origin	Color	Religion	Other	Total
<b>NFHA Members</b>	3,634	12,803	1,434	1,614	992	501	145	4,666	25,789
<b>HUD</b>	374	1,123	155	195	130	40	37	134	1,742
<b>FHAPs</b>	1,805	4,033	548	768	571	283	155	981	6,577
<b>DOJ</b>	7	9	2	11	0	0	0	13	42
<b>Total</b>	<b>5,820</b>	<b>17,968</b>	<b>2,139</b>	<b>2,588</b>	<b>1,693</b>	<b>824</b>	<b>337</b>	<b>5,794</b>	<b>34,150</b>
<b>Percent of Total</b>	17.04%	52.61%	6.26%	7.58%	4.96%	2.41%	0.99%	16.97%	

[www.nationalfairhousing.org](http://www.nationalfairhousing.org)

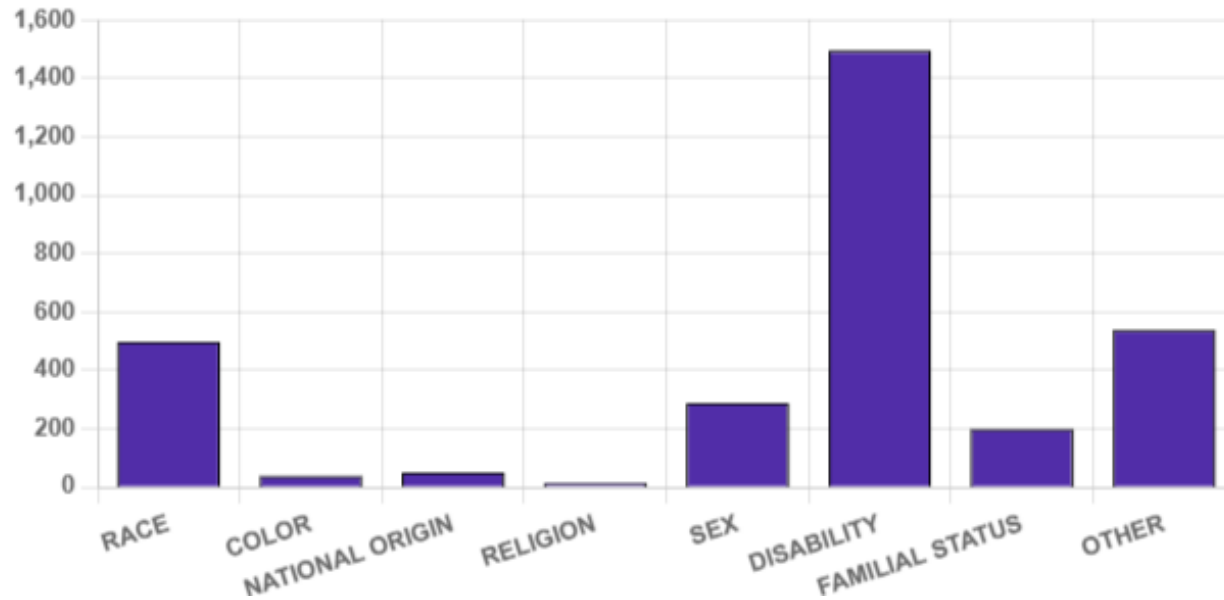
Disability status is the most frequently reported basis of discrimination in housing

# Housing Discrimination Data

## Ohio

Close

Total Complaints: 2942

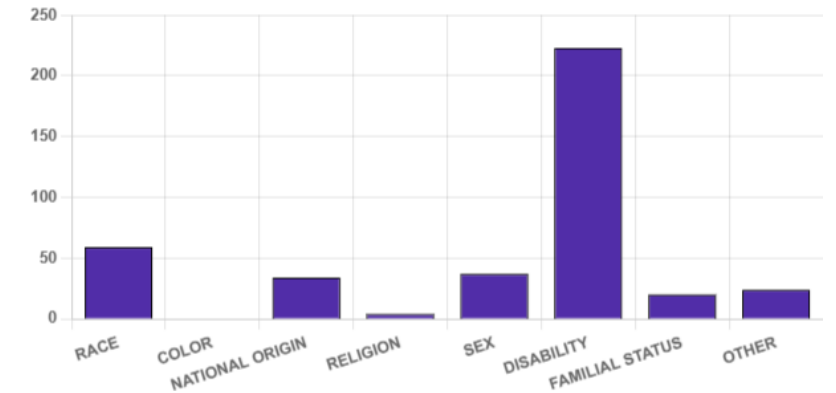


Ohio has 6 FHIP organizations and accounts for 9% of all national complaints.

## Kentucky

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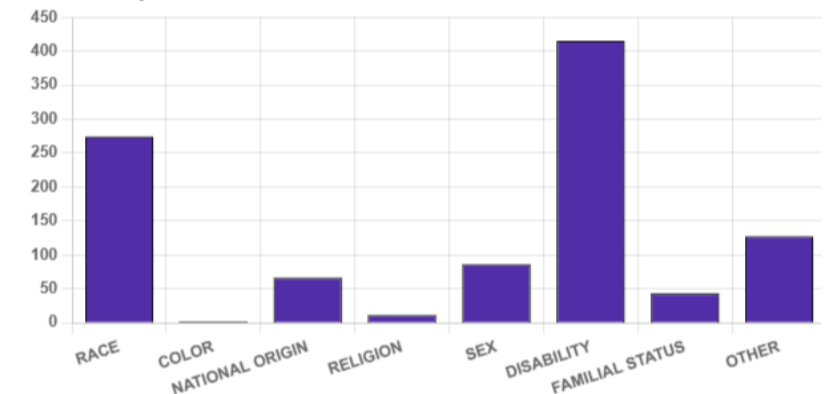
Total Complaints: 384



## Indiana

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Total Complaints: 955





# Understanding Unlawful Housing Discrimination

Protected for a Reason

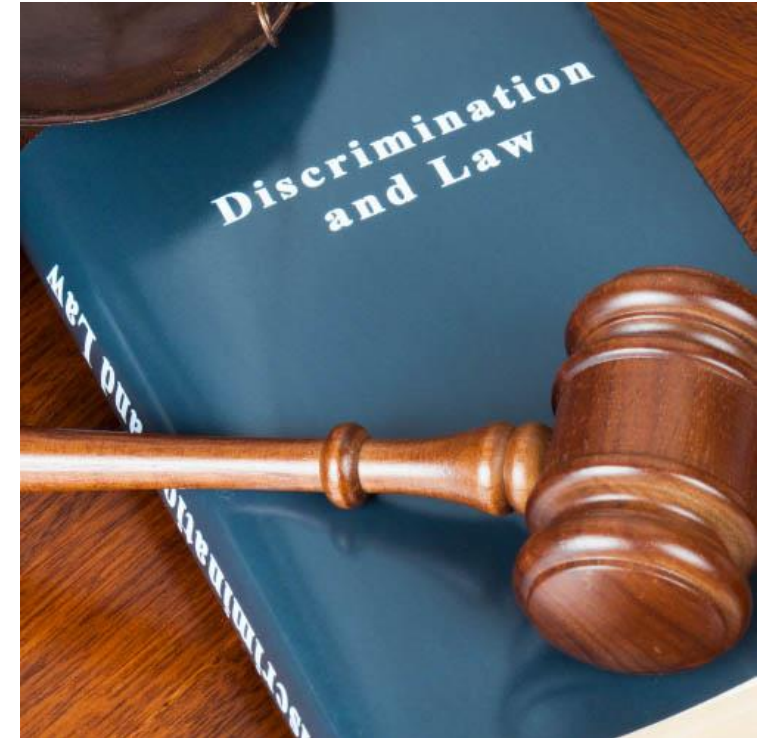
# Types of Discrimination

- Disparate treatment occurs when someone is treated differently because of their protected status.

Charging immigrants larger deposits  
Only offering certain units to females

- Disparate impact occurs when a policy or practice that appears to be neutral has a disproportionately negative impact on people of a certain protected status.

“no criminal history allowed”  
“SSN required for all residents”



## Disparate Treatment

direct discrimination

unequal treatment

(usually) intentional

prejudiced actions

different standards

## Disparate Impact

indirect discrimination

unequal  
consequences/results

(usually) unintentional

neutral actions

Same standards/  
different consequences

# Understanding Bias

## Explicit bias

Expressed directly

Aware of bias / operates consciously

Example – Sign in the window of an apartment building – “whites only”

## Implicit bias

Expressed indirectly

Unaware of bias / operates sub-consciously

Example – a property manager doing more criminal background checks on African Americans than whites.

All humans have biases. We must learn to recognize and mitigate those biases to ensure equitable interactions with tenants.

**\*Presumption of Positive Intent\***

HOME can provide additional training on mitigating bias



Fair Housing violations today  
often look less like this:



# And more like this...

## A Black family says they 'whitewashed' their home to get a higher appraisal. They're not the only ones

By Nicquel Terry Ellis, CNN

🕒 5 minute read · Updated 4:11 PM EDT, Thu April 20, 2023



Erica and Aaron Parker and their two daughters. courtesy Erica Parker

**(CNN)** — Erica and Aaron Parker first had their Loveland, Ohio, home appraised in 2020. It was a competitive selling market, they had made several renovations to the

- Erica worked from home and was present for the appraisal; appraised value was less than expected and report had glaring negative errors
- Realtor suggested doing a test for appraisal bias by removing all evidence a black family resided there (a.k.a. whitewashed) and having a white neighbor stand in as the homeowner
- Second appraisal was \$92,000 more when the home appeared to belong to a white family

# Special Consideration: Criminal History

**CRIMINAL  
RECORDS**



Housing is critical to overall stability, and individuals re-entering society following incarceration are often denied housing due to their criminal history.

2016 HUD guidance **prohibits blanket bans** and applicant screening policies and practices should incorporate the following recommendations:

- The lookback period should not be more than a few years in most cases.
- Evaluate the nature of the offense and whether it demonstrates a risk to resident safety and/or property.
- Consider each individual on a case-by-case basis, recognizing mitigating circumstances such as rehab efforts or letters of support.
- Utilize conviction records, not arrest records, as proof of offenses committed.

HOME has a podcast episode on Tenant Screening on our website!

[Fair Housing Focus: Tenant Screening](#)



**OHIO  
JUSTICE  
& POLICY  
CENTER**

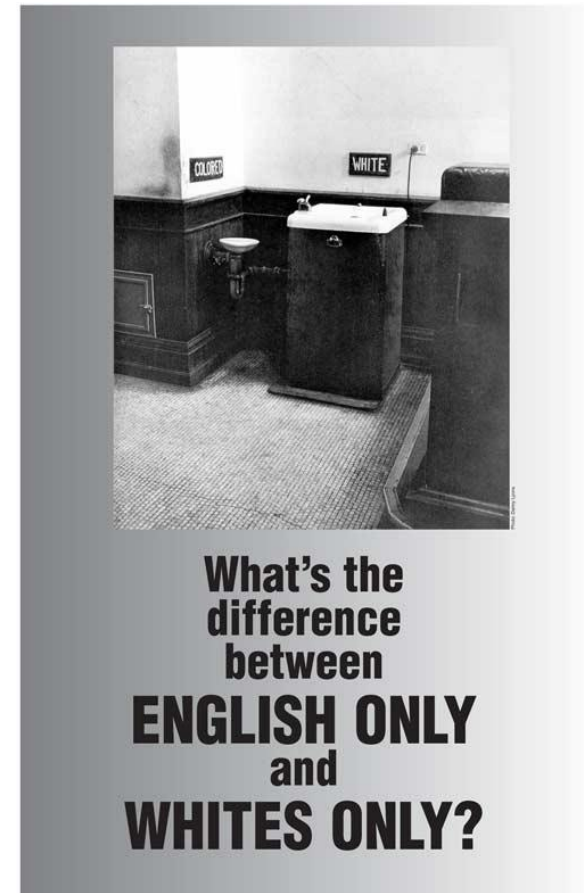
Folks can register for our legal clinic either through our website at [www.ohiojpc.org](http://www.ohiojpc.org) or through this direct link: <https://forms.office.com/r/ADeKffiyBy>

## Special Consideration: Linguistic Profiling

Linguistic profiling occurs when a person's manner of speaking, dialect, or accent are used to infer certain characteristics about them such as race, national origin, or religion.

A housing provider can violate the Fair Housing Act if they turn away a prospective tenant/buyer due to their **accent** or because they are not proficient in English.

Housing providers should be willing to use an interpreter, translation service, or otherwise work through communication and language barriers.





# Special Consideration: Religious Discrimination

Fair housing violations might include:

- refusing to sell or rent to a woman who wears a hijab
- harassing residents because of their religious practices, dress; allowing some tenants to put up Christmas lights, but telling others they cannot put up decorations for their non-Christian holidays;
- telling prospective tenants they will not like a neighborhood because there is no synagogue, mosque, or church nearby; or
- prohibiting use of a community room for religious purposes, while allowing tenants to use them for secular gatherings.



In some cases, religious organizations can give preference to members in housing owned by the organization.



**Reports of antisemitism, anti-Arab and anti-Muslim bias continue to surge across the US, new data shows**

By Chelsea Bailey, CNN  
© 4 minute read · Updated 10:19 AM EST, Mon December 11, 2023

# Special Consideration: Familial Status

Includes:

- Families with a child or children under the age of 18
- Pregnant women
- Adult(s) with legal custody of children (or seeking custody)
- Adoption/foster care



Examples:

- Occupancy limits that over-reach
- Discriminatory Terms and Conditions



Housing for Older Persons Act (HOPA) allows certain exclusions for 55+ and 62+ communities

Affirmative Marketing is permitted!

# Special Consideration: Sex-based Discrimination

**Sexual orientation** and **gender identity/expression** protections fall under the “sex” protection umbrella for non-conformity to gender norms (or location specific laws)



## Survivors of Domestic Violence Protections

Violence Against Women Act (VAWA) was reauthorized, amended, and strengthened in 2022

- Existing protections for survivors of domestic violence, dating violence, sexual assault, and stalking (regardless of sex, sexual orientation, or gender identity) remain
- VAWA includes protections for survivors who are applying for or residing in **covered housing programs**.



## Sexual Harassment

- Quid Pro Quo
  - “This for that”
- Hostile Environment
  - severe or pervasive

# Special Consideration: Neighbor-on-Neighbor Harassment

Housing providers must comply with the Fair Housing Act and may be held responsible for failing to help a tenant who they know is being harassed by another tenant or neighbor. Property Management companies are encouraged to:

- Distribute a notice that harassment of any kind will not be tolerated, and that management will take complaints seriously.
- Handle all complaints in a consistent manner and dole out consequences in a consistent manner.
- Cases that show proof that associations/property managers did nothing to prevent or eliminate a “hostile environment” for a resident can result in judgements for the plaintiff.



# Retaliation

It is illegal to:

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise their right
- Retaliate against a person who has filed a fair housing complaint or assisted in a fair housing investigation



Adverse action taken in the six months after a complaint/investigation is presumed retaliatory.

# Disability Discrimination

[Disability Main | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)





# What is a “disability” under Fair Housing?

The Fair Housing Act defines disability as:

- 1) a physical or mental impairment which substantially limits one or more major life activities\*,
- 2) a record of having such an impairment, or
- 3) being regarded as having such an impairment  
(which includes people associated with or residing with a person meeting this definition)



Current illegal use of controlled substances is excluded.

\* *Major life activities* include but are not limited to: caring for oneself, performing manual/mental tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, working, etc.

# Disability Rights in Housing

## [Reasonable Accommodations and Modifications | HUD.gov](#)

- The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.
- In addition, the FHA prohibits a housing provider from refusing to permit, at the expense of the person with a disability, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises.

# Modifications

## HUD DOJ Joint Statement on Reasonable Modifications

Modifications are structural changes made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

- Include structural changes to interiors, exteriors, common and public use areas
- In private housing the landlord must allow but tenant pays for the modification. (If federally funded, housing provider pays.)
- Examples: ramps, wider doorways, grab bars, walk-in shower, carpet removal, lower counters

Multifamily housing built after March 1991 must incorporate certain FHA Design & Construction Requirements

[Accessibility First Instruction Curriculums and Webinars | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

# Accommodations

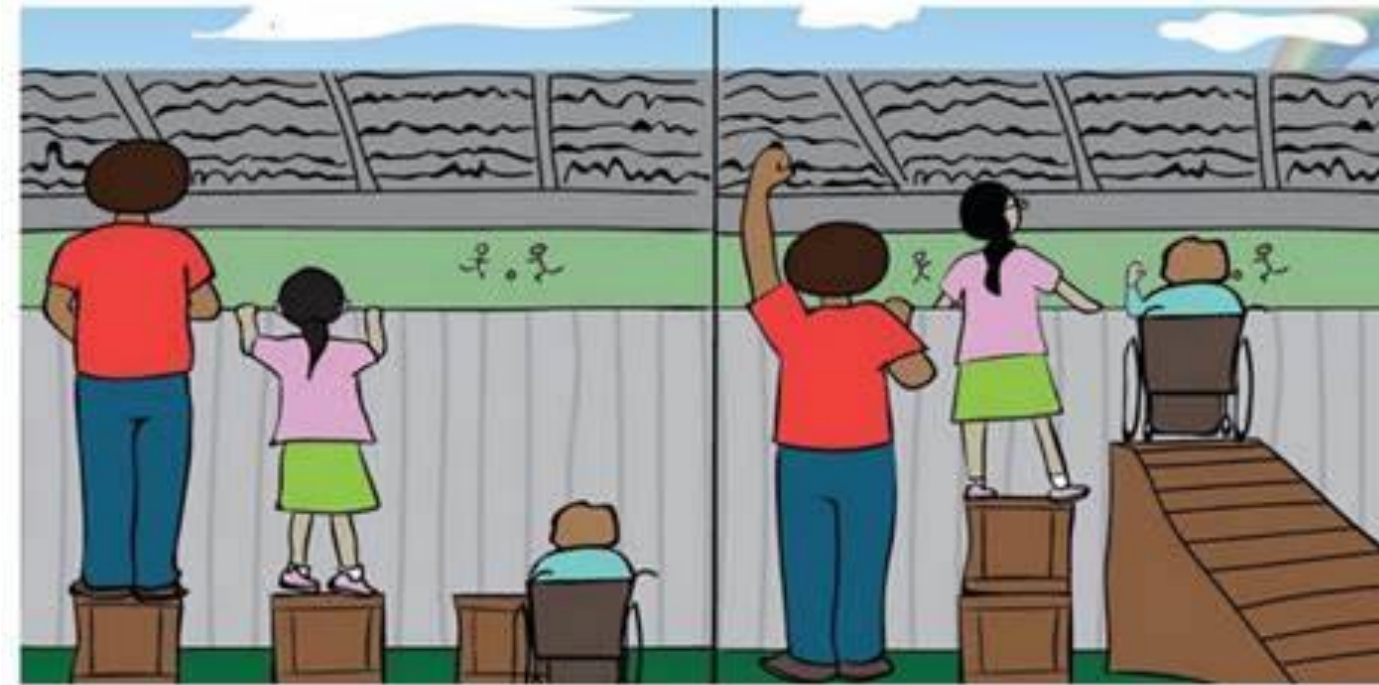
## HUD DOJ Joint Statement on Accommodations

Changes in rules, policies, practices or services so that a person with a disability has an equal opportunity to use and enjoy a dwelling.

### Common Reasonable Accommodations:

- Assigned parking spaces
- Copies of notices sent to caregiver
- Additional time to move
- Changes in due dates to match disability income
- Assistance Animals (additional training available)

# Understanding Disability Rights



Equality

Equity



# The Accommodation / Modification Request Process

## Making the Request

- Tenant is responsible for making the request
- Requests can be made verbally or in writing (encourage written)
- Requests can be made at any point of tenancy and more than one accommodation can be requested.

## Proof of Disability

- After request is made, the housing provider can ask for documentation connecting the disability to the person's request if that connection is not apparent.
- If disability is obvious, requesting additional documentation before approving the request may be unlawful.

# The Accommodation / Modification Request Process

## Documentation

- When the disability and/or connection to the requested accommodation is not apparent, documentation may be requested.
- This documentation often comes in the form of a letter from a medical, social services, or mental health professional with personal knowledge of the individual and their disability-related needs.
- The letter is not required to disclose diagnosis, nature, or extent of disability. It only needs to state that the request is related to the disability and is necessary for the full use and enjoyment of the dwelling.

# Sample Verification Letter from Medical Professional:

[On Official Letterhead]

[Date]

Re: Reasonable Accommodation/Modification for [Patient Name and Address]

To Whom It May Concern:

[Patient Name] is a patient in my care. I am writing because my patient is an individual with a disability as defined by the Fair Housing Act. Due to [his/her/their] disability, [he/she/they] require(s) the following accommodation or modification:

Examples: Permission to have an assistance animal despite a no pet policy, a reserved, accessible parking space near the entrance to their unit, carpet removal to better manage asthma, etc.

This patient's disability affects their ability to [identify major life activity affected by the disability]. The request presented above is necessary because of their disability to fully use and enjoy their housing. Your prompt review and written approval of this request is appreciated.

Sincerely,

[Name]

[Title]

[Contact Info]

**Questions? Concerns?**

**Contact HOME**

2400 Reading Road, Suite 118

Cincinnati, OH 45202

[www.homecincy.org](http://www.homecincy.org)

513-721-HOME(4663)

Examples of who may provide letter include:

- Doctor
- Nurse
- Physician's assistant (PA)
- Therapist
- Case manager
- Social worker
- Counselors
- School Admin

Any professional (i.e., adheres to code of ethics) who can confirm the disability and need for RA/RM.

# Denying RA/RM Requests



A housing provider can legally deny a request for a reasonable accommodation or reasonable modification when one of the following is true:

- The tenant/resident does not have a disability, or the disability is not apparent and documentation is not provided.
- The request is unrelated to the person's disability.
- The request creates an undue financial and administrative burden.
- The request is a fundamental alternation to provision of housing.
- The request poses a direct threat to the health and safety of others.

Any denial of a disability-related request requires an "interactive process" between the housing provider and tenant. (Can't just say "no" or ignore)

# The Housing Provider CANNOT

**Ask questions about the nature or extent of a person's disability** (beyond verification that a disability exists that causes a need for the accommodation).

- Cannot require disclosure of exact diagnosis
- Cannot ask for medical records or a **specific "form"**
- Cannot ask how long a person has been disabled

**Charge fees for reasonable accommodations**

- Cannot charge a deposit, fee, or other related service charge for an assistance animal
- Cannot charge a fee for breaking a lease if unit is no longer appropriate due to disability
- Cannot charge more for accessible units on the first floor or near elevators (disparate impact)



# Pet or Assistance Animal?

[Assistance Animals | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

If the person doesn't have a disability, it's a **PET**.

Individuals with a disability may request to keep an assistance animal as a reasonable accommodation to a housing provider's pet restrictions.

HUD uses the general term **ASSISTANCE ANIMAL** which includes both **SERVICE** and **SUPPORT** animals for people with disabilities.

- **A service animal** is any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. (ADA definition)
- **Support animals** are other trained or untrained animals that do work, perform tasks, aid, and/or provide therapeutic emotional support for individuals with disabilities.



# Parking Accommodations

Reserved parking spots for residents with disabilities have repeatedly been upheld when challenged in court.

FAQs for Discussion:

- Isn't existing accessible parking enough?
- What if they don't have an official placard or sticker from the BMV?
- Isn't everyone else going to want their own space too?



# Best Practices

# Ensuring Equitable Interactions on the Front Line of Fair Housing

- Property-based staff are the “front line” of consumer interactions in housing
  - Tenants, prospective tenants, Fair Housing testers
- Staff are tasked with managing and accessing someone else’s home and that can be uncomfortable at times (for both sides)
- How you choose to do your job/run your business has a direct impact on people’s housing (that’s **power\***)

Yes, this is your **JOB/BUSINESS**, but it is the resident’s **HOME**.

\*Note about Presumption of Positive Intent\*

# Bias Activity

Your Circle

YOUR					
Race					
Religion					
Gender					
Sexual Orientation					
Native Language					
Family Status					
Ableness					
Education Level					
Economic Level					

# Two Key Front-Line Issues

## Preferential / Differential Treatment

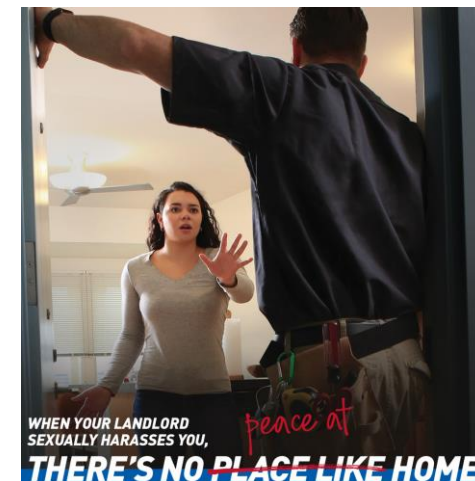
*Certain tenants receive service first, more often, and/or of different nature than others due to implicit biases or other factors*

## Sexual Harassment

- *Housing providers are in a position of power*
- *Even (seemingly) consensual relationships can be or can become fair housing violations*
- *You have a right not to be harassed, too!*

## Ingroup Bias

THE TENDENCY TO FAVOR PEOPLE WHO ARE IN THE SAME GROUP AS US AND EXCLUDE OUTSIDERS.



# Fair Housing & Maintenance

## Evaluating and Managing Maintenance Requests

- Do you use a software program/app or do you have your own system (email/text/phone)? Does your system retain records? How long?
  - Being able to show what, when, and why you've done what you've done is important in fair housing disputes. Claims can be filed 1-2 years after the (alleged) violation (admin vs court).
- Do you have policy around which issues get taken care of first? Do you complete in the order they are received or are there reasons certain requests get bumped to the front of the line?
  - Important to avoid preferential treatment
    - remember we have biases and competing interests





# Managing Requests

- Is there any designation between routine/emergency issues and request related to disability status in your maintenance plan? What happens if you see a disability request entered in the maintenance system? (hint – don't ignore it)
- Who is responsible for approving disability related accommodation/modification requests where you work? What is your role in the process? If you don't know, find out! Ask questions!
- What other type of requests/issues do you get and how are they handled?



PROCESSES ARE IMPORTANT TO ENSURE EQUAL TREATMENT.

# Fair Housing Best Practices

- Treat all applicants alike regardless of what makes them uniquely them AND recognize that people with disabilities may need something different.
- Show all available properties to all prospects. Never discourage applicants from applying or suggest they would be happier living elsewhere.
- Do not refuse to rent to or otherwise discourage families with children (unless HOPA applies).
- Review all marketing materials and advertisements to ensure that there is no suggestion of a preference, limitation, or discrimination based on protected class. (Evaluate your property, too, not just ads.)

# Fair Housing Best Practices

- **Establish a procedure** for responding to requests for reasonable accommodations and modifications.
- **Establish a procedure** for responding to maintenance and other requests in an equitable manner during normal business hours and handling emergencies after hours.
- **Keep** community **rules basic** and **non-discriminatory**.
- **Keep records** on all prospective residents, in addition to current and past residents.
- **Train new employees** about fair housing laws and how to comply.

# Fair Housing Reminders

- Fair Housing is THE LAW
  - Supersedes any company policies, CC&Rs, bylaws, board resolutions, insurance riders, etc.
- Everyone present in the United States is protected by the Fair Housing Act
- Fair Housing involves both EQUALITY and EQUITY
- As housing professionals, you are in a position of power and control over people's housing opportunities and experiences. You have a legal duty to care.



# Submit Your Feedback to HOME



<https://forms.office.com/r/gpcvXC8Wep>

Contact Rebecca Griffin at 513-977-2627 or [Rebecca.griffin@homecincy.org](mailto:Rebecca.griffin@homecincy.org) if you are interested in additional training or events.

