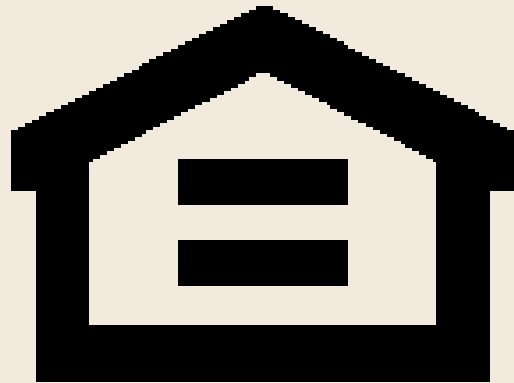


Fair Housing 101:



Everything You Always
Wanted to Know About
Fair Housing



What is Fair Housing?



Fair housing is the right of all people to be free from discrimination in the rental, sale, or financing of housing.



Fair Housing Laws



Fair Housing Amendments Act (FHA)

Federal law covers almost all dwellings except:

- owner-occupied building of 4 or fewer units
- sale of a single-family house without agents

WA State Law Against Discrimination (RCW 49.60)

Local FH Enforcement Agencies “Substantially Equivalent”

- King County
- City of Seattle
- City of Tacoma

*State and local laws cover ALL dwellings except
the sharing of a dwelling unit with the owner*

What Do Fair Housing Agencies Do?



- Enforce fair housing laws – accept and investigate discrimination complaints
- Provide technical assistance – assist housing providers and others with info about FH laws
- Education and outreach – provide workshops and FH resources

Federal Protected Classes



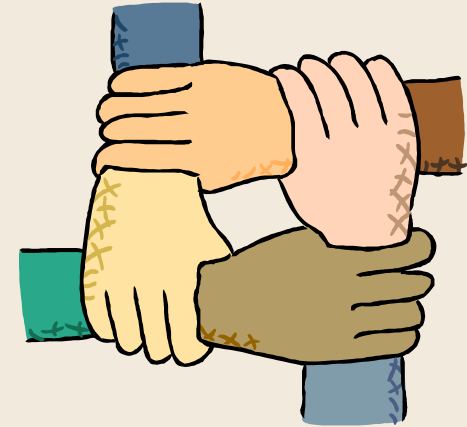
- **Race**
- **Color**
- **National Origin & Ancestry**
- **Religion (Creed)**
- **Sex (Gender)**
- **Disability**
- **Familial (Parental) Status**
- **Retaliation**
- **HUD Programs – Age**



State and Local Protected Classes



- **Marital Status**
- **Sexual Orientation**
- **Gender Identity**
- **Veteran / Military Status**
- **Age** (*Seattle and unincorporated King County*)
- **Section 8** (*in Seattle, Bellevue, unincorporated King County and WSHFC/tax credit properties*)
- **Political Ideology** (*protected in Seattle*)



Scope of Fair Housing Laws



- Dwelling rentals – apartments, houses, condos
- Real estate sales transactions – houses, condominiums, cooperatives
- Homeowner Associations
- Mobile home parks
- Housing Authorities



Scope of Fair Housing Laws: Covered Non-traditional Housing



- Group homes
- SROs
- Residential motels/hotels
- Transitional housing

Clean and Sober

- Homeless shelters
- Clean and sober housing
- Social service programs that work with households to locate, attain and sustain housing (i.e., rental assistance programs)

DV Shelters

What is Housing Discrimination?



- **Disparate (Different) Treatment**
- **Adverse Impact**
- **Retaliation**
- **Failure to Provide Access or to Accommodate Disability**



Different Treatment Discrimination



Treating certain people differently because of their protected class. Examples:

- Refusal to rent – Not accepting transgender applicants
- Unreasonable criteria – Requiring all residents with mental health needs to be in treatment
- Steering – Directing people perceived as being unable to live independently to a residential care facility
- Unequal treatment – Conducting repairs for other residents, but not for those who are Hispanic

Different Treatment Discrimination



- Unfair notices – Issuing a notice for loud noise to families with children, but not to other loud residents without children
- Harassment – Taking no corrective action when a resident complains that his neighbor called him racial names
- Segregation – Requiring residents who are Spanish-speaking to reside in a particular area of the facility.
- Unreasonable requirements – Requiring residents to attend Christian religious services.

Adverse Impact Discrimination



Policies and rules may seem neutral on their face, but may have an adverse impact on certain protected classes.

Examples:

- Requiring all program participants to work (disability)
- Having “zero tolerance for violence” policy which involves ending residency for entire household (females)

Such policies and rules are discriminatory unless housing providers have no other feasible way to address their legitimate business purpose.

Retaliation



An act of harm by a housing provider against:

- someone because he or she has asserted fair housing rights
- someone who assists another person to assert fair housing rights
- someone who is a witness in a fair housing investigation (including housing staff).

A retaliation complaint can be supported even when the original complaint is unfounded.

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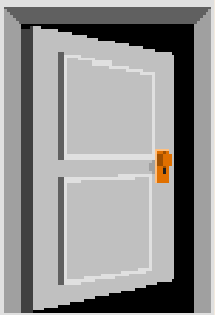
What questions do you have about what we've covered so far?



LUNCH BREAK



What Do Fair Housing Laws Cover?



← Advertising and marketing

Application and screening →



← Fair tenancy rules

Similar treatment for all residents →



← No harassment or retaliation

Disability access & accommodation →



Eligibility - The Bottom Line?



A good resident (or client) is someone who:

- Can and will pay rent in a timely manner, or will follow rules and policies set by the housing provider
- Reasonably care for the premises
- Be a good neighbor

Tenancy Rules and Enforcement



- Resident conduct rules should apply to everyone
- Damage is damage, no matter whether it's caused by an adult, a child or a guest
- Allow common area use for all
- No children-only curfews
- Follow CPS guidelines when setting rules for parental supervision

Harassment & Hostile Environment



Fair housing laws prohibit harassment or intimidation in housing because of protected class.

- Types of harassment: Verbal, visual (written or graphic), physical
- Who harasses: Landlords, rental staff, other residents, guests, vendors
- Liability: When level of harassment reaches “severe and pervasive”

Management knowledge + lack of action = liability

Race, Color, National Origin, Ancestry



- Treat all applicants and residents similarly, regardless of their race, color, national origin or ancestry
- If federally funded, provide foreign language interpreters and translation of written materials (if no federal funds, this is recommended)
- Programs developed to specialize in serving particular groups of people based on their race or national origin.

Families with Children



Familial Status = Parental Status

- The presence of one or more children under the age of 18 in the household
- Parent, step-parent, adoptive parent, guardian, foster parent or custodian with a minor child
- Pregnant woman or someone in the process of acquiring legal custody of a child



Families with Children



Don't deny housing to families with children unless:

- The individual unit or sleeping area is only large enough for a single person (SRO or dormitory cot).
- The housing is designated as HOPA – only for older individuals, who are 55+ or 62+.
- Housing designated for sexual offenders may be able to discriminate against families with children.
- Housing providers who wish to exclude families with children should check with their legal counsel.



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REFLECT



- Can family programs restrict eligibility to fathers or mothers only?
- What happens if a tenant would like an extended family member (grandmother/cousin/etc.) to move in with them?
- Can family programs screen out a pregnant woman if she does not have any other children in her household?

Occupancy Limitations



- Fair housing laws allow housing providers to establish reasonable occupancy standards
- HUD “Keating memo” – As a general rule, a two per bedroom occupancy policy is presumed reasonable – but various factors must be considered
- Washington State Human Rights Commission
Occupancy Standards Memorandum
(www.hum.wa.gov/FairHousing/OccupancyStandards.html)

Sex/Gender Discrimination



- Providers cannot segregate residents by sex unless they have shared sleeping areas, bathing areas and/or bathrooms, which would negatively influence the residents' right to privacy.
- Providers cannot mandate sleeping arrangements within individual units.
 - Example: A manager cannot restrict a boy and girl from sharing a bed or bedroom.
- If a provider has concerns about possible child abuse in a specific situation, contact CPS.

Domestic Violence & Fair Housing



Domestic Violence: “gender” protected class

- 85-90% of DV victims are women
- Example: A neutral “zero tolerance for violence” policy adversely impacts women more than men. A blanket application of policy cannot be justified as a business necessity.

Housing providers cannot refuse to house a person because s/he is a DV survivor.

DV Issues: Applicants and Residents



Applicants with DV history

- Apply alternative criteria (female DV survivor may have an eviction record because of a DV incident)
- Don't limit housing based on when DV incident occurred

DV incidents with residents

- When a perpetrator is arrested/convicted and/or the survivor obtains a no-contact order, you can evict the perpetrator (not the survivor)
- Consider steps she has taken to prevent further violence
- Allow her to break the lease or to move to another unit
- Let her pay to have the locks changed

Domestic Violence Programs



- DV housing providers should not refuse to house:
 - female survivors with adolescent sons
 - male survivors (alternate housing elsewhere could be provided)
- Shared sleeping areas or shared bathrooms?
 - No -- Refusal to rent to women with teenaged sons is probably illegal.
 - Yes -- Providers should consider if there is any way to modify floor plans to provide privacy. Funding sources may want to consider providing resources to housing providers to increase privacy.

Domestic Violence: Summary



- Traditional, non-specified homeless housing programs cannot screen out survivors of DV. Women are a protected class under disparate impact protections.
- DV programs cannot screen out adolescent men or male survivors.
- DV is DV – regardless of the timeline or recency of the domestic violence issue.



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REFLECT



Questions for reflection:

- You are a homeless transitional housing provider. A woman discloses she is a recent survivor of DV, but doesn't want DV services. Can you deny her housing? Can you require her to get a Protective Order? What can you do?
- Under what conditions can a domestic violence program deny housing to a male survivor of DV? What can they do instead?

Disability Accessibility



- Disability laws and definition of “disability”
- New construction and remodeling must meet facility **accessibility standards**
- Housing providers must make **reasonable accommodations** for people with disabilities
- Housing providers must allow **reasonable modifications** for people with disabilities



FHA Definition of Disability



FHA definition of disability is broader than other federal definitions:

- Individuals with a physical or mental impairment that substantially limits one or more major life activities
- Individuals regarded as having such an impairment
- Individuals with a record of such impairment

WA State Disability Definition



State definition of disability is broader than the federal fair housing law definition:

- Person with a sensory, mental or physical condition that is medically cognizable or diagnosable
- Exists as a record or history
- Is perceived to exist whether or not it exists in fact.

Includes disabilities that are:

- Temporary or permanent
- Common or uncommon
- Mitigated or unmitigated

Fair Housing Laws: Who's Disabled?



YES:

- **Person using prescribed psychiatric medications**
- **Alcoholic still drinking (unless contrary to federal program regulation)**
- **Alcoholic or drug addict in recovery**

NO:

- **Sex offenders**
- **Drug addict still using illegal drugs**
- **Person with conviction for manufacture or distribution of a controlled substance**

Facility Accessibility



- **FHA accessible design standards for newly constructed, multi-family housing of 4+ units, ready for first occupancy on or after March 13, 1991.**
- **Federal or state funded housing may have additional access requirements.**
- **Washington state building code includes FHA and ADA access guidelines.**
- **Safe harbors: www.fairhousingfirst.org**

**Don't confuse the ADA and the FHA!
HUD has its own accessibility standards.**

Disability Inquiries



Generally, don't ask:

- Do you have a disability?
 - How severe is your disability?
 - Why are you getting SSI?
 - Do you take medications?
 - Can we see your medical records?
 - Ever been in drug or alcohol rehab?
 - Are you able to live independently?
 - What does that service animal do?
-
- There are some exceptions, such as the Homeless Management Information System



Reasonable Modifications



Only some programs explicitly authorize a preference for certain disabilities based on federal statute or executive order.

Absent statutory or regulatory authority, or an executive order, it is unlawful to limit housing opportunities to people with diagnosis-specific disabilities.

If you are unsure about whether your housing program may favor specific disability groups, contact your agency's funder(s) for details.

Reasonable Modifications



A reasonable modification is a change to the physical structure for a person with a disability.

Examples?



Reasonable Accommodations



A reasonable accommodation is a change in the housing provider's normal policies or practices that is necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling.

Examples?

Reasonable Accommodation Process



- The accommodation or modification must be **requested**.
- The accommodation or modification must be for a **person with a disability**.
- The need for accommodation or modification must be **related** to the disability.
- The requested accommodation or modification must be **reasonable**.

Accommodations/Modifications



- Recommended: Share your reasonable accommodation/modification policy with everyone.
- Who may request the accommodation or modification?
- When may an accommodation or modification be requested?
- Is a special form needed? Is a verbal request enough?

How Much Information?



- What if the disability is not readily apparent?
- Who can verify that a person has a disability or requires an accommodation or modification?
- Details about the disability?
- Over-disclosure
- Confidentiality



What are Service Animals?



Animals used to assist, support, or provide service to people with disabilities.

- Assistance animals
- Support animals
- Therapeutic animals
- Companion animals



Dogs are most common, but may be other species (cats, birds, etc.).

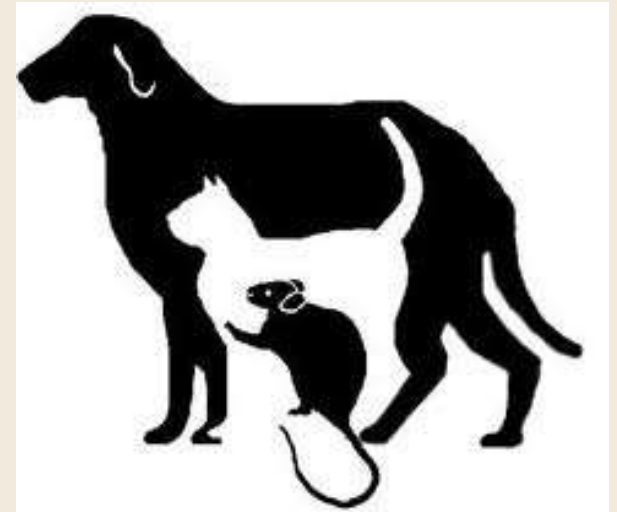
Service animals are NOT pets.



Emotional Support Animals



- Animal's presence lessens the effects of a mental or emotional disability.
- Some perform tasks or functions for people with mental or emotional disabilities.
- By their very presence, and without training, may
 - relieve depression or anxiety
 - help reduce stress-induced pain for people with certain medical conditions



Assistance Animal Requirements



- **Pet deposits or fees do not apply to assistance animals.**
- General cleaning or damage deposits can be charged, if all residents are similarly charged.
- Resident is responsible for care and maintenance.
- Resident is liable for any damages.
- Establish reasonable expectations for the behavior of animals – both pets and assistance animals.



Disability Accommodations Examples



- Waive a prior eviction or bad credit when the applicant can prove it was directly attributable to a disability.
- Residents must leave at 9:00 am – A disabled person requests more time in the morning because it takes him longer to eat, shower, and dress.
- Third-party help – Someone with a disability requests that the housing or shelter provider contact a family member or service provider who can assist with paying fees or addressing problems that may arise.

Disability Accommodations Examples



- A resident cannot perform a required chore at a halfway house because of his disability, so he requests alternate chores or reduced chore requirements.
- Someone with a disability requests permission for a part-time or live-in caregiver to help him with bathing, eating, etc.
- A transitional housing program requires participants to engage in job search. A resident with a disability who is unable to work requests the job search requirement be waived as an accommodation.



Accommodations: Clean & Sober Housing



- Only use a “clean and sober” designation when funded to do so.
- May only prohibit alcohol use in a specifically funded clean and sober program.
- Okay to require participation in recovery-related services, but must allow alternatives based on religious objection.
- Disability reasonable accommodations may be necessary in testing or cases of relapse.



Accommodations at Termination



Example:

A resident faced with termination requests a reasonable accommodation because the problem behavior was the result of her disability.

Her request should present a strategy for correcting this behavior (going into therapy, going to AA or NA, participating in another program, etc.). The provider can work with her to develop the strategy.

Post-Termination Accommodations



An individual was placed on a “do not house” list or blacklist. If the behavior was caused by a disability and he has since corrected this behavior, he has the right to request a reasonable accommodation to be removed from the list.

- Note: The provider could require verification from reputable sources that the behavior has changed.



Criminal History & Disability



Applicant with criminal history must:

- Verify that the criminal history is disability-related
- Present a plan to show that the symptoms that led to the past crime have been, or are being, addressed and that it is unlikely to happen again.



Who Pays for RA or RM?



Accommodations (generally no/low cost): Landlord pays

- To meet minimum accessibility standards
- No extra fee or deposit for accommodations



Modifications:

Federal funding

- Housing providers receiving federal funding must pay for modification unless it would cause a financial hardship.

No federal funding

- Tenant pays unless landlord did not comply with required accessibility features.
- Tenant must restore to prior condition unless modification would not interfere with or would even benefit future tenant

UNreasonable Accommodation Requests?



Accommodation requests may be denied if:

- There is **no disability-related need** for the accommodation.
- The request imposes an **undue financial AND administrative burden**.
- The request would **fundamentally alter** the nature of the housing provider's operations.
- Objective evidence of **direct threat** to people or property

Interactive Process is key -- **ALWAYS offer to discuss options and alternatives.**



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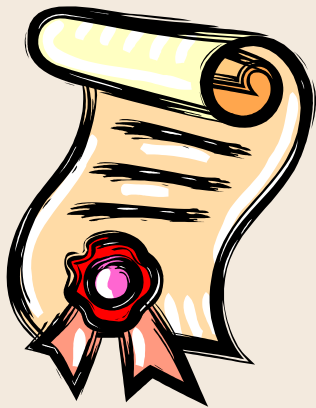
REFLECT



Questions for reflection:

- When can a family be asked if they are diagnosed with a mental illness in order to be screened in or out of housing?
- Can homeless housing programs require treatment as a condition of accessing housing or staying housed?
- What if the family indicates that they were previously dependent on illegal drugs?

BEST PRACTICES



Best Practices: Advertising



Fair Housing Poster and Logo

- Display a Fair Housing Poster
- Use the HUD Equal Housing logo on all written materials and in all advertising.

Use Inclusive Marketing

- Provide written materials in alternative formats for people with disabilities
- Consider translating written materials to other languages



The poster features the Equal Housing Opportunity logo (a house with an equals sign) and the text "We Believe in Fair Housing!". A green box states: "In Washington State, it is illegal to discriminate in the rental or sale of housing because of:". Below this, a list of protected categories is provided: Race or Color, National Origin, Disability, HIV/AIDS and Hepatitis C Status, Use of Dog Guide or Service Animal, and Honorably Discharged Veteran or Military Status. Other categories include Creed, Sex, Marital Status, Families with Children, Sexual Orientation or Gender Identity, and Retaliation. A list of five commitment points follows, each preceded by a checkmark. At the bottom, contact information for the Washington State Human Rights Commission and the U.S. Dept. of Housing & Urban Development is provided, along with the date "December 2007" and a note "Alternative formats available upon request."

Equal Housing Opportunity

We Believe in Fair Housing!

In Washington State, it is illegal to discriminate in the rental or sale of housing because of:

Race or Color	Creed
National Origin	Sex
Disability	Marital Status
HIV/AIDS and Hepatitis C Status	Families with Children
Use of Dog Guide or Service Animal	Sexual Orientation or Gender Identity
Honorably Discharged Veteran or Military Status	Retaliation

- ✓ We gladly receive inquiries from all.
- ✓ We apply fair and equitable criteria when evaluating applicants.
- ✓ We enforce our rules equally and without discrimination.
- ✓ We set rents, deposits, and fees without discrimination.
- ✓ We respond to repair requests and other tenant concerns equally.
- ✓ We provide reasonable accommodations for people with disabilities.

If you believe you have been discriminated against, contact:

Washington State Human Rights Commission 1-800-233-3247 or 1-800-300-7525 TTY www.hum.wa.gov	U.S. Dept. of Housing & Urban Development 1-800-877-0246 or 206-220-5185 TTY www.hud.gov
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December 2007 Alternative formats available upon request.

Best Practices: Inquiries & Intake



- Establish entry criteria that focuses on ability to:
 - pay rent or fees, or to follow your rules and policies
 - maintain the premises
 - live in harmony with others
- Follow the same procedure for each intake.
- Establish a consistent referral protocol.

Best Practices: Harassment-free Housing



- Have an anti-harassment policy
- Obtain anti-harassment training for staff
- Investigate reports of harassment
- Call 911 for threatening or violent situations



Best Practices: Disability



- Market to people with disabilities
- Develop an access and accommodation policy
- Communicate your willingness to provide accommodations and approve modification requests
- Authorize accommodation approvals at the lowest level
- Ensure accessibility of business/leasing office



Best Practices: Policies and Training



- Base admission on very clear requirements that do not discriminate against a protected class.
- Review all policies, procedures, rules and application criteria for unintended discrimination.
- Staff should obtain regular fair housing training and know to document any fair housing related issues.
- Seek technical advice as issues arise.

NEXT STEPS



Gather into groups of 4 - 5 people and discuss for ten minutes:

- **One “take away” I have from today’s workshop.**
- **One “action step” I plan to take to promote fair housing.**

??????????



What questions do you have about what we've covered TODAY?



Fair Housing Questions?



CONTACT A CIVIL RIGHTS AGENCY FOR TECHNICAL ASSISTANCE

- U.S. Dept. of Housing & Urban Development, www.hud.gov/fairhousing
- Washington State Human Rights Commission, www.hum.wa.gov
- King County Office of Civil Rights, www.kingcounty.gov/civilrights
- Seattle Office for Civil Rights www.seattle.gov/civilrights
- Tacoma Human Rights www.cityoftacoma.org/humanrights