



GUIDE TO FAIR HOUSING FOR LANDLORDS

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FAIR HOUSING IS NOT A RIGHT, ITS THE LAW

The Fair Housing Resource Center, Inc. is a non-profit 501 (c) 3 organization offering several housing programs to benefit residents of Lake, Geauga and Ashtabula County, Ohio. The mission of the Fair Housing Resource Center is to promote equal housing opportunities for all persons and to advocate for fair housing and diversity in Lake and surrounding counties through the education and involvement of the public, governments, and the business community.

FHRC operates a Landlord/Tenant hot-line service for county residents to assist them in protecting their housing rights. FHRC also operates a fair housing intake complaint service for victims of housing discrimination. FHRC is a Housing Counseling agency certified by the U.S. Department of Housing and Urban Development and provides homeowner counseling such as foreclosure prevention, predatory lending, home financing and repairs.



Who is Fair
HOUSING

Fair housing is a person's right to choose, without unlawful discrimination, where to live. Ohio's fair housing laws protect people who are denied housing based on myths, stereotypes or prejudices about groups of people.

Ohio's discrimination laws protect everyone. The laws make it illegal to discriminate in the sale, rental or financing of housing or otherwise interfere with someone's housing rights based on his or her membership in the following protected classes:

- Race
- Color
- Religion
- Sex
- Ancestry
- Disability
- National origin
- Military status
- Familial status (having at least one child who is younger than 18)



NATIONALLY

31,216
DISCRIMINATION
COMPLAINTS IN 2021

<https://nationalfairhousing.org/resource/2022-fair-housing-trends-report/>

What is

FAIR HOUSING



Common QUESTIONS

Q: Are there any additional protected classes?

A: Yes, depending on where a community is located. Many state or and local governments have expanded fair housing protections to marital status, sexual orientation, gender identity, source of income, age, ancestry, military status, and other characteristics.

Q: Can someone who isn't a member of a protected class file a fair housing complaint?

A: Yes, anyone injured by a violation of fair housing law may file a claim. The law recognizes claims by prospects, applicants, and residents who suffer discrimination because they are members of a protected class—or because their household members, relatives, friends, or guests are members of a protected class.

Q: How does fair housing law apply to advertising?

A: Under the FHA, it's unlawful to make, print, or publish any notice, statement, or advertisement related to the rental of a dwelling that indicates any preference, limitation, or discrimination based on a protected characteristic.

Example of Housing Discrimination:

John has three teenage children. John's building has a patio with picnic tables, and one day John's children decide to have lunch there with some of their friends. The next day, John receives a notice from the homeowners association informing him that the building rules say that the patio is for adult-use only and that he needs to make sure his children do not violate the building rules. John files a complaint with HUD because building rules that discriminate against children are a form of familial status discrimination.



https://www.hud.gov/program_offices/fair_housing_equal_opportunity/examples_housing_discrimination

ADVERTISING

Fair housing laws prohibit discriminatory housing advertisements. These laws apply to publishers, such as newspapers and directories, as well as to persons and entities who place real estate advertisements. This would also include advertisements published in online ads, Facebook posts, flyers, and more.

Keep in mind that discriminatory advertising also includes applications, brochures, signs, photographs, human models, symbols, spoken words, and phrases.

Advertisements should only describe the property and amenities and should never describe the preferred tenant's characteristics.

Examples of advertising that may violate the Act include phrases such as "no children," which indicates discrimination on the basis of familial status, or "no wheelchairs," which indicates disability discrimination.

Advertising "Adult only" building, or "perfect for newlyweds" are other examples of potential discriminatory advertising.



DO

Describe the property:

- o Two bedrooms
- o Walk-in closets
- o Great view

Describe the amenities:

- o Fitness Room
- o Community pool
- o Optional Garage

- Write down current rental specials in a log with dates.
- Have clear written policies and keep records with dates on when policy changes occur.
- If you have a "no pets" policy, include an exception for assistance animals for individuals with disabilities.
- Use "Equal Housing Opportunity" language in all advertisements or use the HUD fair housing logo.

DON'T

Describe what you are looking for in a tenant:

- o Perfect for a married couple
- o Great for singles

Describe the people in the neighborhood:

- o Catholic neighborhood
- o Large Hispanic population

- Don't Describe the neighborhood in terms of churches, or other landmarks that could suggest a preference for a protected class.
- Don't include an explicit preference or limitation based on a protected class i.e. no children



BEST PRACTICES



SCREENING POTENTIAL TENANTS

Finding reliable tenants is an essential step in renting a unit. Ensuring that your new tenants have the financial means to afford their rent and will care for your home as if it is their own is a feat in itself. There are many methods that are used but tenant screening is the most common.

When speaking with prospective tenants, you want to ask questions to make sure that your tenants will take care of the property. Many of the same do's and don'ts that apply to advertisements also apply to screening applicants.

Having clear written screening policies can ensure equal access for all individuals. Remember, a landlord has the freedom to choose their tenants, as long as they are screening for their viability as a tenant and not on personal preferences. Read on to find some of the best practices to ensure you are finding the best tenant for your unit, while also adhering to the federal fair housing act.



Tenant SCREENING

- **Have written, objective policies:** Keep your policies simple and make it easy for everyone to understand. It is crucial to have written rental policies detailing the criteria for tenant approval, which should be related to the qualities of a good tenant, such as the ability to afford the rent and having no history of eviction. By following these policies for all applicants, landlords can prevent any appearance of discrimination and avoid potential lawsuits. Be sure to:
 - Have transparent screening criteria for approval easily available in a written format.
 - Include a copy of the policy and all requirements in the documents you give to potential tenants during the application process.
 - Use the same screening process for all applicants. Any difference is a red flag for Fair Housing.
- **Train your staff:** It is also important for anyone involved in renting or maintaining properties to be trained on fair housing laws and rental policies. Landlords could be held legally responsible for the actions of anyone helping them rent the property, so it is essential to ensure that all parties involved are knowledgeable and compliant with the law.
- **Use current applications:** Written applications are an excellent way to gather information about potential tenants, but landlords should be cautious of outdated, boilerplate rental applications that include questions that are illegal, such as asking about familial status. Instead, questions should relate to the rental criteria and should not ask about any protected class. It is advisable to have an attorney review rental applications regularly to ensure compliance with changes in the law.



SCREENING PRACTICES

Screening PRACTICES

- **Basic Screening:** Keep in mind that, just as with the written application, discriminatory questions are also unlawful in any interview or showing of the rental property. The entirety of the application process, including any in-person discussions, phone calls, etc., should solely focus on the rental criteria that you have created. Even simple "small talk" questions such as "where are you from?" can have a discriminatory appearance. Questions should wait until after the rental agreement is signed. This will eliminate the worry that you are asking the question as part of an attempt to use discriminatory or unlawful rental criteria.
- **Can I ask about Children?** Asking potential tenants if they have children is unlawful under the Fair Housing Act; however, you may ask how many occupants will be living in the unit, so long as you do not ask the ages of such occupants. Once the tenant has been approved and you are signing a lease, ages can be included in such agreement for record keeping purposes.
- **Records Keeping:** In addition to keeping accessible, written policies, you should also keep records of interactions with potential tenants, as well as current and past tenants. Keeping these records can help you if any questions are raised about the conversation's legality. Having real-time notes can be of assistance in proving what actually took place during any interaction. It is also helpful to have a system that logs interactions with prospective tenants, applications received, and dates of vacancies.



WHAT IS STEERING

"Steering" potential tenants to other properties based on membership in a protected class (race, familial status, etc.) is also illegal. This means that landlords may not push prospective tenants towards certain units or properties, or have any policies that require such designations.

For example, a landlord cannot steer or require families with children toward a "kid-friendly" building in a complex or have a rule that all families with children must reside in 1st-floor units only. Even if the motivation for such a rule is noise related, it is still illegal to not offer tenants with children the same housing as any other tenant. However, the tenants with children would still be subject to the same noise regulations as everyone else.

As stated earlier, fair housing is a person's right to choose, free from discrimination, where to live. This means that all prospective tenants should be informed of all available housing options. Maintaining accurate and up-to-date records about each of your units, including rental and availability dates, can help you defend against allegations of steering.

It is important to note that there is a difference between "steering" and offering what a potential tenant qualifies for based on objective criteria. For example, if you offer both remodeled units and older units, you do not have to show a remodeled unit to someone who does not financially qualify for it, though it would be best practice to explain why you are not showing certain units.

WHAT IS A REASONABLE ACCOMMODATION

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common-use spaces, or to fulfill their program obligations. An accommodation request may be asked by a tenant, prospective tenant, or someone else on behalf of the tenant or prospective tenant.

Disability Definition:

Disability is defined as any person who has a physical or mental impairment that substantially limits one or more major life activities.

- A person who has a record of such impairment
- A person regarded as having such an impairment

Physical or Mental Impairments:

- Visual or Hearing Impairment
- Mobility Impairment
- Mental Illness
- Emotional Illness
- Intellectual Disability
- Alcoholism & Past Substance Abuse
- Chronic Disease: muscular dystrophy, multiple sclerosis, HIV, Cancer, Autism, ADHD, asthma, etc.

It can be temporary!



Reasonable
ACCOMMODATIONS

Q: Why are reasonable accommodations necessary?

A: A reasonable accommodation allows an individual with a disability to have equal and full access to housing. Individuals with disabilities often face barriers in their lives, including housing. Some individuals cannot pay their bills independently, hear a doorbell ring, or the ability to walk up and down steps.

By granting an exception to a rule or policy, you are removing a barrier and allowing an individual to maintain their dignity and live in their dwelling free of discrimination.

Accommodations are wonderful tools to use in your tool belt and can often benefit the housing provider. If a tenant receives their disability check on the 10th of the month, and an accommodation was granted to allow the tenant to pay their rent on the 12th. This agreement benefits both landlord and tenant as now there is a clear understanding by both parties on when the rent is due, instead of the housing provider having to hunt it down every month.

Some examples of possible reasonable accommodations include:

- Changing the rental due date for someone who receives disability payments in the middle of the month.
- Allowing someone with a disability to pay rent in the office instead of online.
- Making an exception to a “no pet” policy so that a person with a disability can have an animal assistant — sometimes called a “service animal” or “companion animal.”



Common
QUESTIONS

Q: Must a housing provider adopt formal procedures for processing a reasonable accommodation request?

A: A housing provider is not required to adopt a formal process or procedure. However, having a formal procedure may aid individuals with disabilities in making requests for reasonable accommodations. It can also aid housing providers by creating clear and consistent procedures to ensure there are no misunderstandings regarding the nature of the request. It also creates a document trail in the event of a dispute in the future over the accommodation request. Having clear, concise policies and procedures in writing is always recommended.

If you adopt a formal procedure, ensure that your procedures and forms do not seek any information that is not necessary to determine if an accommodation should be granted. Make sure to have your procedures in writing and follow them with each request.

Q: What if a housing provider fails to act promptly on a reasonable accommodation request?

A: When responding to a reasonable accommodation request, a provider must make every attempt to respond promptly. An undue delay in responding to the request can be considered a failure to respond to the accommodation and could be considered discriminatory.

Include a standardized process and time frame in your policy and procedures to ensure all parties are aware of the step-by-step procedures.

A photograph of a person wearing an orange jacket, with their hands visible as they write on a document. The image is partially obscured by a dark overlay on the left side where the text 'Common QUESTIONS' is located.

Common
QUESTIONS

ASSISTANCE & SERVICE ANIMALS

Individuals with disabilities sometimes can require an assistance or service animal. Assistance/service animals are not considered pets. These animals do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.

One request that housing providers receive often is a reasonable accommodation to a no pet or animal policy so that an individual with a disability can have an assistant animal in their housing, including public and common use areas.

There are two types of assistance animals. Service animals and assistance animals. Below find the differences between the two.

Service animals- under the ADA, is defined as 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. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.

A close-up photograph of a woman with dark hair, smiling warmly while holding a small, light-colored dog. The image is partially obscured by a dark overlay on the right side, which contains the main text of the page.

Reasonable
ACCOMMODATIONS

Assistance animal- an assistance animal is a broad term that is used to identify animals that are commonly kept in households and are a type of animal that provides emotional support alleviating one or more symptoms of a person's disability.

Determining the need for an assistance/service animal can be confusing. However, follow these best practices below to help ensure that you are requesting the proper information without violating your tenant's rights.

Determine if the individual has an observable or non-observable disability. As defined above, a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include but are not limited to blindness, deafness, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments, neurological impairments, and mental illness. Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a layperson.

Certain impairments may not be observable. In those instances, a housing provider may request additional information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual's diagnosis.

If the individual's disability is observable, then documentation is not required to grant an accommodation that could assist that individual. If the disability is unobservable, the tenant must provide additional documentation.



Best
PRACTICES

Documentation

Supporting documentation for an assistance/service animal often consists of information from a licensed health care professional – e.g., physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.

A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.

Documentation from the Internet

There has been a new widespread issue of websites that sell certificates, registration, and licensing documentation for assistance animals to any individual willing to participate in a short interview or just pay a fee. These documents often come from out-of-state doctors who may have never treated the needy. HUD provided guidance on January 28, 2020, to assist with this new challenge.

HUD's memo states that such documentation from the internet is not sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed healthcare professionals deliver services remotely, including over the Internet. One reliable form of documentation is a note from a person's healthcare professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

<https://www.hud.gov/sites/dfiles/PA/documents/AsstAnimalsGuidFS1-24-20.pdf>



Best
PRACTICES

Q: I have a "no pets" policy for all my units, do I have to accept a service/assistance animal?

A: Yes, a service or assistance animal is not considered a pet. These animals are used as tools for individuals with disabilities to treat their disability. When an individual requests an accommodation for a service/assistance animal, you collect the necessary documentation and allow the animal to reside in the unit with the tenant. You may not charge any additional deposits or monthly fees.

Q: Can I refuse a request based on a breed of dog?

A: Pet rules do not apply to assistance animals. Therefore breed restrictions for individuals with pets would also not apply. Housing providers may not limit the breed or size of a dog used as a service or support animal.

Q: Can I require that the animal assistant be "certified"?

A: No. Ohio law does not require that an animal assistant have a certification. However, you'll need information about the need for the animal, including asking for a letter from a medical professional as previously described.



Common
QUESTIONS



Last February

WHAT IS A REASONABLE MODIFICATION?

Whereas a reasonable accommodation involved changes to rules, policies, or procedures, a reasonable modification involves a physical change to the structure of the property to allow a disabled individual to fully enjoy the property. Modifications can be made to the interior or the exterior of the unit. This can sometimes include common areas. The tenant requesting the modification is financially responsible for such change, unless you receive a federal housing subsidy for the property at issue.

Some examples of possible reasonable modifications include:

- Allowing a tenant to widen doorways to accommodate their wheelchair.
- Allowing a tenant with a hearing impairment to install a doorbell with an interior, flashing light.

Reasonable
MODIFICATIONS

Q: Who is entitled to a reasonable modification under the Fair Housing Act?

A: Persons who meet the Fair Housing Act's definition of a "person with a disability" may be entitled to a reasonable modification under the Act. However, there must be a nexus, between the requested modification and the individual's disability. If no such nexus exists, then the housing provider may refuse to allow the requested modification.

Q: Who is responsible for the expenses and maintenance associated with a reasonable modification?

A: The tenant is responsible for installation, upkeep and maintenance of a modification that is used exclusively by them. If a modification is made to a common area that is normally maintained by the housing provider, then the housing provider is responsible for the upkeep and maintenance of the modification. If a modification is made to a common area that is not normally maintained by the housing provider, then the housing provider has no responsibility under the Fair Housing Act to maintain the modification.

Q: Does the tenant have to remove the modification when they moves out?

A: Yes, unless a prior arrangement was made between the housing provider and landlord. It is in the best interest of the landlord and tenant to discuss the modification in detail. This discussion should include if the tenant should remove the modification upon move out or leave it.

A photograph of a person with short brown hair, wearing a red shirt and dark pants, sitting in a wheelchair on a concrete ramp. The ramp has a metal handrail. In the background, there is a wooden fence and some greenery. The image is overlaid with the text 'Common QUESTIONS' in white.

Common
QUESTIONS

FAIR HOUSING & FAMILIES WITH CHILDREN

The Fair Housing act makes it illegal to deny housing, create different rules or terms, for any member of a protected class. The act prohibits discrimination in housing against families with children under 18 years, individuals who are pregnant or in the process of obtaining legal custody or individuals with written permission of the parent or legal guardian. Discrimination of families can occur in many different ways. Below are few examples:

Examples include:

- Refusing to rent to families with children
- Requiring families to live on specific floors of buildings
- Imposing overly restrictive rules about children's use of the common areas

Did you know that you can only limit the household members of your unit on the basis of your local occupancy standards? As with any business, it is imperative to research federal, state and local laws and ordinances to ensure that you do not create unfair practices within your business.



Families with
CHILDREN

Q: Can I limit how many people live in my unit?

A: Yes. However you must use your local occupancy standards to determine how many individuals can safely live in the unit. There are many misconceptions such as "one heart beat per a bedroom", "boys and girls cannot share the same bedroom" , that are not enforceable. Research your local occupancy standards to ensure that you are properly limiting the amount of individuals living in your unit.

Q: Can I not allow children to live in my single family home due the unsafe grounds such as house is very close to a busy highway, cliff/large pond in the back yard?

A: No. It is not a housing providers responsibility to determine the safety of a unit for a family with children. Therefore, denying an applicant due to proximity to a highway, cliff or pond can be considered a fair housing violation. A housing provider should allow the guardian to make a decision in the best interest of their family.

Q: Can I make rules regarding children and noise on the property?

A: Rules are created for a reason and often come hand in hand with multi-family living. Rules can be designed for your property but you need to ensure that rules are neutral in their intent and target behaviors and not groups of people.

A hand holding a wooden sign that says "FOLLOW THE RULES!". The sign is made of light-colored wood and has the words "FOLLOW" and "THE RULES!" in large, bold, dark blue letters. The word "FOLLOW" is on the top line and "THE RULES!" is on the bottom line. The hand is holding the sign from the left side, with the thumb and index finger visible. The background is a dark, textured surface.

Common

QUESTIONS

Examples include:

- No loud noises in the common areas after 10:30 p.m.
- No skateboarding, bike riding or roller blading on the sidewalks or parking lot
- No running in common areas or hallways

Q: Can I require all families with children to live in one building as to not disturb other tenants?

A: No. Since familial status is a protected class under the Fair Housing Act, you cannot deny a family equal access and enjoyment to the property. By forcing families with children to live in one building, you are excluding them from housing opportunities due to their membership in said protected class, which directly violates the FHA . This also includes the use of any common areas or facilities in the complex. If you are worried about other tenants being disturbed, you may make a policy regarding noise or quiet hours, so long as the policy is general and applied to all tenants equally, whether they have children or not.



Common

QUESTIONS

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DISCLAIMER

This handbook is intended to provide general information on Ohio and the Federal fair housing laws. Some other laws and ordinances may apply to your property. Though generally similar to Ohio's, federal fair housing laws contain some differences. Also, some cities and counties in Ohio have fair housing laws that may, for example, include additional protected classes. You should review all local laws and ordinances and consult an attorney to ensure you comply with other requirements.

Contact your local Fair Housing Organization for more help, training, seminars, and educational information, if you'd like.

Use your

RESOURCES



***"EVERYONE HAS A RIGHT TO HOUSING FREE FROM
DISCRIMINATION"***

Sex • Disability • Familial Status • Race • Color • Religion •
National Origin or Ancestry • Military Status

**If you feel you've been discriminated against in housing,
make sure you take these steps:**

- Keep a record of the names, dates, addresses, phone numbers, and other important information which can assist in the investigation of your complaint.
- Don't forget to be as specific as possible about the incident. Get the names and addresses of any witnesses to the incident whenever possible.
- Following the incident, you have one year to file an administrative complaint or two years to file a lawsuit.

PREPARED BY:



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