

# FAIR HOUSING: KNOW YOUR RIGHTS



**Fair Housing Center  
for Rights & Research**

## **FAIR HOUSING:** KNOW YOUR RIGHTS

The mission of the Fair Housing Center for Rights & Research is to protect and expand fair housing rights, eliminate housing discrimination and promote integrated communities.



**Fair Housing Center  
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This publication is intended to convey information. Nothing in this publication should be relied on as legal advice, nor should this publication be regarded as creating an attorney-client relationship.

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## WHAT IS FAIR HOUSING?

Everyone living in the United States is protected by fair housing laws. This means that a person cannot be discriminated against in housing based on their “protected class.”

## WHAT IS A “PROTECTED CLASS”?

Everyone living in the United States is a member of a protected class. A protected class is a group of people protected by laws from discrimination based on certain characteristics.

Federal Fair Housing Laws prohibit discrimination in housing-related transactions based on:

- Race/Color
- National Origin
- Sex
- Religion
- Family Status
- Disability

In addition to the federally protected classes Ohio fair housing laws protect people based on:

- Ancestry
- Military Status

**Local Fair Housing Laws** may protect others. Many municipalities offer additional fair housing protections. Please contact your local government offices or visit [www.thehousingcenter.org](http://www.thehousingcenter.org) to learn more about additional classes that are protected in your city.

Some examples of local fair housing protections in Northeast Ohio:

- Age
- Marital Status
- Gender Identity
- Sexual Orientation
- Source of Income

## WHAT HOUSING IS COVERED?

The Federal Fair Housing Act defines a dwelling in very broad terms. Specifically the law states:

“...any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.” 42 U.S.C. §3602(b)

The definition of a dwelling under the Federal Fair Housing Act (FHA) therefore applies to all housing providers, including property owners, landlords, housing managers, neighborhood and condominium associations, real estate agents and brokerage service agencies.

## EXAMPLES OF COVERED HOUSING

- Apartments
- Condominiums
- Emergency Shelters
- Transitional Housing
- Single Family Homes
- College Dorm Rooms
- Manufactured/Mobile Homes
- Nursing Home/Assisted Living Facilities
- Vacant Land Designated for Residential Construction



## WHAT ACTIONS ARE PROHIBITED?

Fair Housing laws prohibit certain actions in housing-related transactions based on protected classes. Described on the following pages are examples of prohibited acts in the rental and sale of housing, mortgage lending and insurance, and advertising.

### PROHIBITED ACTIONS IN RENTAL AND SALE OF HOUSING:



#### **Refusal to rent, sell, or negotiate for housing.**

**Example:** A family attempts to rent an apartment. The landlord states that he does not allow children to live in any of his properties. (Familial Status Violation)



#### **Make housing unavailable or otherwise restrict choice.**

**Example:** Two prospective tenants come to view available housing at an apartment complex. One prospective tenant wears the traditional Muslim hijab and is shown one

apartment in the back of the complex. The other prospective tenant is shown all 5 available units. (Religion Violation)

**Example:** A mother with two children goes to an apartment complex to view apartments. The leasing agent tells her that the management companies only allow families with children on the first floor and there are currently no apartments on that floor available. (Familial Status Violation)

## **Set different terms, conditions or privileges for sale or rental of housing.**

**Example:** A prospective tenant who has a disability is told that because she uses a wheelchair the security deposit will be 2 months' rent instead of 1 month's rent. (Disability Violation)

**Example:** A prospective tenant goes to rent an apartment. The prospective tenant speaks with an accent. Although it is not their policy, the housing provider asks for proof of citizenship. (National Origin/Ancestry Violation)

**Example:** A Jewish couple goes to tour a house that is for sale. The realtor tells them that they might be more comfortable living in an area closer to the local synagogue. (Religion Violation)

## **Provide different housing services or facilities**

**Example:** The housing provider only allows people of certain races to use the pool. (Race/Color Violation)

**Example:** The housing provider refuses to make repairs for a female tenant unless she has sex with him. (Sex Violation)



## **Falsely Deny that Housing is Available**

**Example:** Two prospective tenants come to view available housing at an apartment complex. One prospective tenant is African American and the other prospective tenant is white. The African American prospective tenant is told that there aren't any apartments available, but he could be put on a waiting list if they would like. The white apartment seeker is shown several units that are available immediately.  
(Race Violation)

## **Persuade Owners to Sell or Rent (Blockbusting)**

**Blockbusting:** Persuading or attempting to persuade people to sell or rent property because a member or members of a protected class are moving into the area.

**Example:** A real estate agent tells homeowners in an area they should sell their homes while prices are high because he has noticed many Hispanic families recently moving into the neighborhood. He tells people that their property value will decrease so they should sell now while prices are still high.  
(Race/National Origin Violation)

## **Deny Anyone Access to or Membership in a Facility or Service Related to the Sale or Rental of Housing**

**Example:** A Multiple Listing Service (MLS) does not allow membership in the service based on race/color of the realtor.  
(Race/Color Violation)



## **Retaliate Against a Person for Making a Fair Housing Complaint**

**Example:** A landlord learns that a tenant is making a fair housing complaint against him and begins leaving threatening notes on the tenant's door. (Retaliation Violation)

**Example:** A landlord learns a tenant is making a fair housing complaint against him and starts eviction procedures against the tenant based on this. (Retaliation Violation)

## **OTHER PROHIBITED ACTIONS IN HOUSING:**

**It is illegal to threaten, coerce, intimidate, or interfere with anyone exercising their fair housing rights or anyone assisting others who exercise that right.**

**Example:** A neighbor is constantly threatening another tenant based on their protected class.

**Example:** A neighbor leaves many threatening notes on another family's door based on their protected class.

**It is illegal to advertise or make any statement that indicates a limitation or preference based on a protected class.**

**Example:** A housing provider advertises a unit, but states that "No children are allowed."

**Example:** An assisted living community states in their brochure that "No electric wheelchairs or scooters are permitted in the dining area."

# **MORTGAGE LENDING**

In addition to rental and sales transactions, mortgage lending is covered under the Fair Housing Act.

## **WHAT IS A MORTGAGE?**

Since most people do not have the money to pay for a home outright, people take out mortgage loans as a way to finance that payment over time. Mortgages can be structured in many different ways, so it is important to know what options are available, what is affordable for you, and the signs that the loan may be predatory. A mortgage loan can also be a refinance loan.

A refinance is the payoff of an existing mortgage loan with a new mortgage loan using the same property as security. Homeowners may refinance to draw cash from existing home equity or to obtain a new mortgage loan with a better interest rate and/or payment terms (Fair Lending: Learn the Facts, HUD).

## **RECENT MORTGAGE FAIR LENDING ISSUES**

### **Refinancing:**

People with existing loans that had been paid on time were sold new loans (refinanced) that had predatory conditions and terms.

Lenders steered homebuyers into loan products they could not afford and told them that they could refinance when the loan adjusted to a higher interest rate.

### **Fees and points:**

Mortgage lenders charged high fees and points to people not based on financial characteristics of the borrowers, but on their protected class.

## **PROHIBITED ACTIONS IN MORTGAGE LENDING AND INSURANCE:**

**Impose different terms and conditions on a loan, such as different rates and fees.**

*Discrimination occurs when a lender relies on personal characteristics (protected class) instead of a person's financial ability to repay the loan.*

**Example:** A mortgage lender gives a high cost mortgage to a Hispanic applicant, but gives a traditional loan product to a white applicant who is similarly financially situated, giving the white applicant a more affordable loan.

**Example:** A mortgage lender requires different credit scores, debt to income ratios, or other financial qualifications based on a protected class.

**Discriminate in appraising property**

**Example:** A real estate appraiser uses protected class demographic characteristics to assess the value of a home.

**Refuse to make a mortgage loan or provide homeowners insurance.**

**Example:** A woman applies for a loan and is denied because she is pregnant. The lender states that they are not able to make the loan to her at that time because she is on maternity leave.

**Example:** An insurance company refuses to sell insurance to African American residents with home values less than \$50,000, but does not apply the same rule to white households.

## **PROHIBITED ACTIONS IN MORTGAGE LENDING AND INSURANCE (*CONTINUED*)**

### **Refuse to provide information regarding loans or insurance**

**Example:** A lending institution or insurance agency states that they don't think the consumer would qualify for their products, based on the consumer's protected class.

**Example:** A Latino and a white borrower with similar credit worthiness go to a bank and apply for a loan. The Latino borrower is only offered a high cost subprime loan while the white borrower is offered a traditional loan product. (National Origin/Ancestry Violation).



## **FAIR HOUSING IN ACTION**

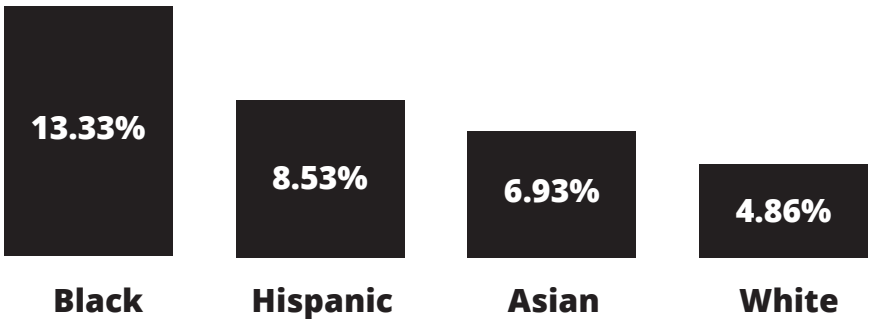
In 2012 Bank of America was found to have violated fair housing laws when a woman was refused a loan because she was on paid maternity leave. Under fair housing laws it is illegal to discriminate in mortgage lending based on familial status or sex.

## HOME MORTGAGE DISCLOSURE ACT

The Home Mortgage Disclosure Act was passed in 1975 and requires lending institutions to report certain loan data. Each year The Fair Housing Center analyzes this data for racial and ethnic disparities.

## 2019 HOME PURCHASE DENIAL RATES, CLEVELAND

The graphic below displays 2019 home purchase loan denial rates sorted by race in the Cleveland-Elyria MSA. Black borrowers were denied home purchase loans at a significantly higher rate than borrowers of other races (13.33%), followed by Hispanic borrowers (8.53%). Asian borrowers were denied at a rate of 6.93%, while White borrowers were denied home purchase loans at a much lower rate of 4.86%.

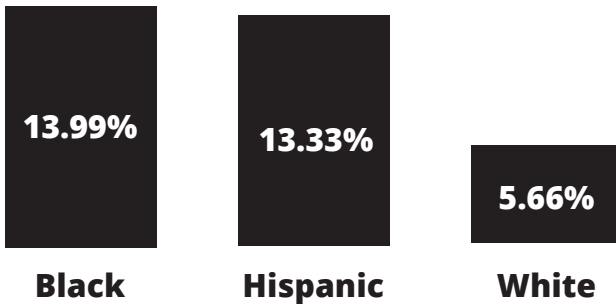


*2019 Home Purchase Loan Denial Rates, Cleveland-Elyria MSA*

## 2019 REDLINING RISK FACTOR ANALYSIS, CLEVELAND

The graph below displays 2019 rates of home purchase loan denials in the Cleveland-Elyria MSA. The data shows that in terms of place, lenders are statistically less likely to approve mortgages and statistically more likely to deny loans for properties located in Black or Hispanic neighborhoods. The Cleveland area fails a Redlining Risk Factor Test, meaning that lending patterns in this region ultimately have a similar effect to redlining — the practice in decades past when people of color were systematically denied loans and mortgages.

Majority Black areas were denied home purchase loans at the highest rate (13.99%), followed closely by majority Hispanic areas, which received denials at a rate of 13.33%. In comparison, borrowers in predominantly White census tracts were denied home purchase loans at a much lower rate of 5.66%.



*2019 Home Purchase Loan Denial Rates, Cleveland-Elyria MSA*

Data was taken from the Home Mortgage Disclosure Act dataset. The data is limited as it does not give a complete credit history of people who applied for loans, but shows who is being denied home purchase loans.

# IMPORTANT DEFINITIONS TO KNOW IF YOU'RE WORKING WITH MORTGAGE LENDERS

**Pre-Qualification Process:** The pre-qualification process is an informal look at a borrower's income, debt, and expenses to estimate how much a potential homebuyer could afford to borrow.

**Pre-Approval Process:** A pre-approval is a more formal process based on credit reports and verifications of income and debts to arrive at a loan amount a potential homebuyer would be approved by the bank to borrow.



# IMPORTANT DEFINITIONS TO KNOW IF YOU'RE WORKING WITH MORTGAGE LENDERS

**Front End Ratio:** This ratio tells the lender what your monthly housing expenses (Principal, Interest, Private Mortgage Insurance (PMI), Homeowners Insurance, Taxes) are compared to your gross monthly income (your income before taxes).

$$\text{Front End Ratio} = \frac{\text{Monthly Housing Expense}}{\text{Monthly Income}}$$

**Back End Ratio** (Also called Debt to Income Ratio): How much debt you are paying now compared to gross monthly income (income before taxes) and the new mortgage payment.

$$\text{Back End Ratio} = \frac{\text{Monthly Housing Expense} + \text{Current Monthly Debt}}{\text{Monthly Income}}$$

**FICO Score:** This is also known as your credit score. FICO scores fall between 300 and 850. Many lenders consider scores above 700 to be a sign of good credit worthiness. Scores below 600 are considered higher risk and can cause lenders to charge higher rates to borrowers.

The conventional debt ratios are around 28% front end and 36% back end to receive a "prime rate." Credit score is also taken into consideration. VA and FHA backed loans allow for higher percentages, and offer competitive interest rates. Know what kind of loan you are applying for. If you think that your loan terms seem unfair based on your credit score and ratios, contact a local HUD approved housing counseling agency or fair housing agency.

# IMPORTANT DEFINITIONS TO KNOW IF YOU'RE WORKING WITH MORTGAGE LENDERS

**Prime Loan:** These are loan products with interest rates at or near the prime interest rate. These are loan products that require good credit worthiness.

**Subprime loan:** These are loan products that have higher interest rates that are designed for people with imperfect credit histories or financial backgrounds. These loan products cost more to the borrower in the long run than prime products. It is possible that these loans may be viable alternatives for people with blemished credit histories. However, studies have shown that these loan products may have been targeted to communities of color, and that people have been steered into higher cost loans when they could have qualified for a less costly prime loan product. (FHEO, hud.gov, Subprime Lending)

**Predatory Lending:** The use of abusive and exploitive lending practices that extracts the equity out of a homeowner's home and/or increases indebtedness. This type of lending violates federal fair lending laws if it targets members of a protected class for harsher treatment and conditions. (Fair Lending: Learn the Facts, HUD)

## DOJ Settles with Indiana Bank for Lending Discrimination

*United States of America v. First Merchants Bank*

In June 2019, the DOJ reached a settlement agreement resolving allegations against First Merchants Bank in Indiana. The DOJ alleged that the bank engaged in lending discrimination through redlining, and that the Bank's residential mortgage lending policy denied residents in African-American neighborhoods equal access to credit.

Under the terms of the settlement, the bank will cease any discriminatory practices and work with a third-party consultant to conduct an assessment of its fair lending program; invest \$1.12M in a loan subsidy fund to increase credit opportunities for African American residents; invest \$500,000 into marketing efforts, outreach, and other programs; and open a new branch and loan production office designed to provide banking and credit opportunities to residents in predominantly African-American neighborhoods in Indianapolis. (*The United States Department of Justice, 2019*)

# IMPORTANT DEFINITIONS TO KNOW IF YOU'RE WORKING WITH MORTGAGE LENDERS

## Equal Credit Opportunity Act (ECOA):

This law protects people from discrimination in mortgage lending and other credit-related transactions based on their:

- Race
- Color
- Religion
- National Origin
- Sex
- Marital Status
- Age
- Recipient of public assistance.

## Fair Housing Act:

This law protects people from discrimination in mortgage lending based on:

- Race
- Color
- National Origin
- Religion
- Sex
- Familial Status
- Disability



## RECENT FAIR LENDING CASE

### UNITED STATES V. WELLS FARGO

“The Department of Justice (DOJ) case against Wells Fargo over violations of the Fair Housing Act is the second largest fair lending settlement in the DOJ’s history, after the lawsuit against Countrywide Financial. Brokers at the country’s largest mortgage lender were found to have raised interest rates and broker fees for more than 30,000 minority customers. According to lending data, African-American customers in the Chicago area paid on average \$2,937 more in broker fees than similarly situated white customers. Hispanic borrowers were charged \$2,187 more. Black and Hispanic homeowners also were encouraged to take on riskier subprime loans.

Wells Fargo agreed to a \$175 million settlement in July 2013, though the company denies any wrongdoing and states it settled to avoid a ‘costly legal fight.’”

*Information from the United States Department of Justice, Housing and Civil Enforcement*

# PROTECTED CLASSES IN MORE DETAIL



## NATIONAL ORIGIN



## SEX

- *Domestic Violence*
- *Sexual Orientation & Gender Identity*



## FAMILIAL STATUS



## DISABILITY

## NATIONAL ORIGIN



National origin is a protected class under federal law. This protects people from discrimination based on their country of origin, culture, or language. Ohio also protects people from discrimination based on ancestry. This means a housing provider cannot discriminate based on where a person's parents and grandparents are from.

### **A person cannot be denied housing opportunities based on:**

- Being from or having family from another country.
- Having a name associated with a certain national origin.
- Having an accent associated with a certain national origin.
- Participating in certain customs associated with a national origin.
- Being married to or associated with people from a certain national origin.

## **Examples of housing discrimination based on national origin:**

- A housing provider requires additional identification documentation from a person because the person has an accent. The housing provider does not require these identification documents from other applicants.
- A housing provider will not rent to anyone who does not speak English.
- A realtor only shows a homebuyer certain housing based on customs associated with homebuyer's national origin or ancestry.
- A housing provider institutes a rule that the complex will no longer accept rental referrals from refugee resettlement agencies.
- A neighbor is harassing a neighbor because of their national origin or ancestry. (*Immigration Status and Housing Discrimination Frequently Asked Questions, HUD*)

## **IMMIGRATION STATUS AND FAIR HOUSING**

**All people living in the United States are protected by fair housing laws regardless of their immigration status.**

**Example:** An international student who is Muslim is studying at a university in the United States. He applies to rent an apartment and is told by the landlord that he doesn't rent to people who are not Christian.

*Although the student is not a permanent citizen of the United States, his fair housing rights have been violated, in this case because of his religion. The student could bring a fair housing complaint against the housing provider.*

## RECENT NATIONAL ORIGIN CASES

**In April of 2013, the Housing and Civil Enforcement Division of the United States Department of Justice filed a complaint against a Texas apartment complex and management company.** The complaint alleges the company violated the Fair Housing Act by denying housing opportunities to persons of Middle Eastern and South Asian descent by denying that units were available and by segregating persons of Middle Eastern and South Asian descent to certain buildings on the complex.

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**In June of 2012, the Department of Housing and Urban Development (HUD) settled a charge of discrimination against an Alabama housing complex and management company.** The company was charged with violating the Fair Housing Act by asking people of Hispanic descent to provide additional documentation in the rental process based on their national origin or ancestry, documentation that others were not required to produce.



## SEX DISCRIMINATION



Sex is a protected class under federal and state Fair Housing laws. This means that a housing provider cannot discriminate based on sex. This includes protection under the law against sexual harassment and intimidation.

The following section will address how sex discrimination protections have been used to protect victims of domestic violence as well as members of the lesbian, gay, bisexual, and transgender communities.

# SEXUAL HARASSMENT

The Fair Housing Act prohibits sexual harassment in housing. There are two types of harassment outlined in the law:

## **Quid pro quo sexual harassment:**

Housing provider, his or her employee, agent or contractor conditions access to or retention of housing-related transactions on victim's submission to sexual conduct.

## **Examples:**

- Housing provider threatens to evict a tenant if the tenant will not perform sexual favors.
- Maintenance manager of complex will not make repairs unless tenant performs sexual favors.
- Landlord will raise the rent if tenant doesn't perform sexual favors.

## **Hostile environment sexual harassment:**

Housing provider, his or her employee, agent or contractor, or in certain circumstances another tenant, engages in sexual behavior of such severity or pervasiveness that it alters the terms and conditions of tenancy and results in an environment that is intimidating, hostile, offensive, or otherwise significantly less desirable.

## **Examples Include:**

- Someone who works in the leasing office continually asks tenant out on dates.
- A maintenance manager gropes a tenant while in her apartment making repairs.
- A landlord makes sexually explicit jokes to a tenant.
- A landlord always asks about a tenant's love life.
- A landlord is constantly making sexually explicit comments

*(HUD, Questions and Answers on Sexual Harassment Under the Fair Housing Act, November 2008).*

## **DOMESTIC VIOLENCE IN FEDERALLY ASSISTED HOUSING**

In 2001, HUD issued a rule allowing housing authorities to evict tenants for criminal activity committed by a household member or guest, commonly known as the One Strike Rule. However, policy makers recognized that steps needed to be taken to ensure that this rule would not punish tenants who are victims of domestic violence.

### **Violence Against Women Act (VAWA) 2005:**

This law includes specific protections for victims of domestic violence, dating violence, or stalking in federally assisted housing by:

- Prohibiting public housing authorities (PHAs) from denying admission.
- Prohibiting evictions in public housing, voucher, and Section 8 project based programs.
- Prohibiting the termination of assistance, tenancy, or occupancy rights.

### **Examples of Prohibited Actions:**

- The public housing authority evicts a woman from her housing because the police were called when her ex-boyfriend came to the house and broke a window and tried to break down the unit door.
- A woman loses her voucher because on an eviction due to the housing authority's "one strike rule" when police are called when her partner attacked her.

### **2013 Reauthorization:**

- Creates emergency housing transfer options.
- Gives tribal courts recourse against non-Native offenders.
- Protects lesbian, gay, bisexual, and transgender victims of domestic violence.
- Added protections for immigrants and residents of Rural Development and Low-Income Housing Tax Credit (LIHTC) properties.

## **DOMESTIC VIOLENCE IN PRIVATE MARKET HOUSING**

At the time of this publication, Ohio does not have a law similar to VAWA for victims of domestic violence in private market housing. However, courts have held that victims of domestic violence can be protected under the fair housing laws when actions taken against them result from gender stereotypes or rules or terms of housing have a disparate impact on victims of domestic violence.

### **Gender Stereotypes Example:**

A housing provider tells a woman that after speaking with her previous landlord it was discovered that the police had been called several times for domestic violence. The landlord states that he does not want to rent to any women with those kinds of issues.

### **Disparate Impact Examples:**

*Disparate impact is when a rule that is applied to all residents has a negative impact on a group of people based on their protected class.*

- A housing provider has a “zero tolerance” policy to evict households for any criminal activity. This policy would likely impact more women because women are statistically more likely to be victims of domestic violence.
- A housing provider will not rent to anyone who lists an emergency domestic violence shelter as a previous residence.

*(Assessing Claims of Housing Discrimination Against Victims of Domestic Violence under the Fair Housing Act and the Violence Against Women Act, HUD, 2011)*

# SEXUAL ORIENTATION & GENDER IDENTITY



The Department of Housing and Urban Development (HUD) prohibits discrimination in federally assisted housing based on actual or perceived sexual orientation or gender identity. In 2018, Cuyahoga County Council passed legislation that protects the LGBTQ community from discrimination. The following municipalities in Cuyahoga County include sexual orientation and gender identity as protected classes within their local ordinances:

## **Sexual Orientation:**

Beachwood, Brook Park, Cleveland, Cleveland Heights, Cuyahoga Heights, East Cleveland, Euclid, Garfield Heights, Lakewood, Linndale, Maple Heights, Newburgh Heights, North Olmsted, Olmsted Falls, Shaker Heights, South Euclid, University Heights, Warrensville Heights

## **Gender Identity:**

Beachwood, Cleveland, Cleveland Heights, East Cleveland, Euclid, Lakewood, Linndale, Maple Heights, Olmsted Falls, Shaker Heights, South Euclid, University Heights, Warrensville Heights

# **DISCRIMINATION PROHIBITED IN HOUSING RECEIVING FEDERAL FINANCIAL ASSISTANCE**

In 2010, The U.S. Department of Housing and Urban Development offered clarification on its policy to ensure its programs are open to all eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

## **The regulations require:**

- Equal access in housing funded by HUD and housing that holds a mortgage insured by the Federal Housing Administration (FHA).

## **This means that owners and operators of HUD-funded housing or housing insured by FHA\* are prohibited from:**

- Asking about an applicant's sexual orientation, gender identity, or marital status for the purpose of determining eligibility or otherwise making the housing available.

***\*A private housing provider who receives an FHA mortgage loan*** and who rents the property is prohibited from discriminating or inquiring about a potential renter's sexual orientation or gender identity since the source of funding for these loans is from HUD.

## **HUD-assisted or HUD-insured housing includes, but is not limited to:**

- Public Housing
- Housing Choice Voucher Program (Section 8)
- Subsidized Housing
- Community Development Block Grant (CDBG) Program
- Housing Opportunities for Persons with AIDS
- Supportive Housing for the Elderly (Section 202 Housing)
- Supportive Housing for Persons with Disabilities (Section 811)
- FHA-Insured Mortgages
- Section 236 Mortgages
- HOME Program

## **WHAT ABOUT HOUSING THAT ISN'T LOCATED IN A COVERED MUNICIPALITY AND ISN'T FINANCIALLY ASSISTED BY HUD?**

Currently, federal legislation does not specifically cover gender identity, sexual orientation, or gender expression in fair housing laws. However, federal laws do prohibit discrimination based on sex and cases can be filed on this basis. If you feel that you have been a victim of housing discrimination because of your sexual orientation, gender identity, or gender expression, contact a fair housing agency in your area for assistance.

### **HUD SAME SEX HOUSING DISCRIMINATION STUDY**

In 2013, HUD conducted a study to measure housing discrimination against same sex couples on a nationwide level. This study measured the treatment of same sex couples responding to online housing advertisements relative to heterosexual couples. The study found that:

- Same-sex couples experience discrimination in the online rental housing market, relative to heterosexual couples.
- Adverse treatment is found primarily in the form of same-sex couples receiving fewer responses to the email inquiry than heterosexual couples.
- States with legislative protections show slightly more adverse treatment for gays and lesbians than in states without protections.
- Adverse treatment of same-sex couples is present in every metropolitan area where tests were conducted.

## SEXUAL ORIENTATION & GENDER IDENTITY

Examples of discrimination based on sexual orientation, gender identity, or marital status:

- A housing provider will not rent to two men who are in a relationship, stating that he would not feel comfortable having them as tenants.
- A housing provider harasses a tenant because the tenant is a transgender individual.
- A housing provider who receives federal financial assistance falsely states that nothing is available because of the gender identity of the tenant's partner.
- A lender will not make a loan to two financially qualified women because they are in a same sex relationship.



## **FAMILIAL STATUS**



Familial Status, the presence of children in the home, was added as a protected class in 1988 as part of the Fair Housing Amendments Act.

## **FAMILIAL STATUS**

**Familial status protection covers households with one or more individuals under the age of 18.**

**This includes households where the individual(s) under 18 are living with:**

- A parent or another person who has legal custody of them.
- The designee of a parent or other person having such custody, with the written permission of a parent or other person.

**Familial Status protection also covers:**

- People who are pregnant.
- Persons in the process of securing legal custody of any individual under the age of 18 years. This includes foster care and adoption.

## **FAMILIAL STATUS AND OCCUPANCY CODES**

Many cities, townships, and villages have occupancy codes. Occupancy codes state how many people are permitted to live in their property. These often are based on the square footage of rooms within a unit, but not always.

Generally, a bedroom is large enough for two people. However, based on local codes, some bedrooms may be able to accommodate more or less people. Check with your local government offices to confirm how many people can live in a unit.

## FAMILIAL STATUS

### Common Fair Housing Violations:

- Families are told that the housing provider does not allow children.
- Families with children are only allowed to live in certain areas of building or apartment complex.
- Landlord advertises that “No Children” are allowed to live in the property.
- Landlord requires that children of the opposite sex have separate rooms.\*

\*Children of opposite sexes **are permitted** to share a bedroom in **both federally assisted and private housing**. A housing provider cannot require children to have separate bedrooms unless sharing a bedroom would violate the occupancy code. This includes Housing Choice Voucher (Section 8) participants.

**Q: *But I thought Housing Choice vouchers prohibited children of opposite sex sharing a bedroom?***

**A: No.** This is a very common misunderstanding. Families can choose to have housing where all children have a separate room, but are not required to do so. This gives families more options, especially when considering availability and price of housing.



## DISABILITY



Disability was added as a protected class in 1988 as part of the Fair Housing Amendments Act. People with disabilities are afforded additional protections under the Fair Housing Act.

## **DISABILITY DEFINITION**

**A person is considered to have a disability when any of the following are true for an individual:**

- Physical and/or mental impairment which substantially limits one or more major life activities
- A record of having such an impairment
- Being regarded as having such an impairment
- Includes people associated with or residing with person meeting this definition.

### **Major life activities include:**

Functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

### **Record of such an impairment:**

Has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

### **Regarded as having an impairment:**

- Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation.
- Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment.
- Does not have a physical or mental impairment but is treated by another person as having such impairment.

*(24 C.F.R. §100.201 Definitions, Subpart D-Prohibition Against Discrimination Because of Handicap)*

## EXAMPLES OF COVERED DISABILITIES

- Chronic mental illness
- Hearing, mobility, and visual impairments
- Cancer
- AIDS/HIV
- Developmental disability
- Alcoholism or past drug abuse



**There are two groups of people the Fair Housing Act does not protect:**

- Current illegal drug users.
- Anyone who poses a direct threat to the health and safety of others or causes substantial physical damage to the property.

# REASONABLE ACCOMMODATIONS AND REASONABLE MODIFICATIONS



This section will define reasonable accommodations and reasonable modifications and explain the request process.

## **ADDITIONAL PROTECTIONS FOR PEOPLE WITH DISABILITIES**

The Fair Housing Act is designed to ensure that everyone is treated equally whether looking for housing or while living in housing. People with disabilities are afforded additional protections to ensure equal enjoyment of their home.

Housing providers are required to grant **reasonable accommodation** and **reasonable modification** requests for tenants with disabilities.

### **WHAT IS A REASONABLE ACCOMMODATION?**

**A reasonable accommodation is a change in the policies and procedures of a residential property owner or manager.**

### **EXAMPLES OF REASONABLE ACCOMMODATIONS:**

- Allowing a service animal despite “no pet” policy.
- Reserving a parking space.
- Allowing a live-in aide.
- Allowing a non-tenant to use laundry facilities.
- Moving from one unit to another without a fee.
- Changing the rent due date.
- Informing others (family, social worker, etc.) of new policies.
- Notifying a tenant with multiple chemical sensitivity in advance of painting and pest treatments.
- Waiving “guest fees” and parking fees for a tenant’s home health aide or tenant with a mobility impairment.

## WHAT IS A REASONABLE MODIFICATION?

A reasonable modification is a physical change to the interior of a tenant's own unit or to the common use areas (i.e., lobby, clubhouse, laundry facilities).

## EXAMPLES OF REASONABLE MODIFICATIONS:

- Widening doorways
- Installing grab bars
- Lowering heights of kitchen cabinets
- Installing a ramp
- Installing automatic water faucet shut-off
- Installing or removing carpet
- Lowering/raising height of switches, outlets, thermostats
- Installing lever door handles
- Installing pictures, color-coded signs or pathways for people whose cognitive disabilities make written signs impossible to use

## WHO PAYS FOR REASONABLE MODIFICATIONS?

**Usually it is the responsibility of the tenant to pay for the reasonable modification.** However, there are situations where the housing provider may have to pay for the modification:

- The property was built after March 13, 1991 and is subject to new construction requirements which include certain accessible features.
- The property is federally assisted housing and therefore is required to have certain accessible features.

***Contact your local fair housing agency if you are unsure if you are the person responsible for paying for a reasonable modification.***

## **REASONABLE MODIFICATION SCENARIOS**

1. A tenant has a disability which makes it difficult to get into and out of the shower. The tenant makes a reasonable modification request to add grab bars to the shower stall.
2. A tenant with an anxiety disorder feels more secure in their unit with an additional deadbolt on the front door. The tenant makes a reasonable modification request.
3. A tenant who uses a wheelchair makes a reasonable modification request to add a ramp to the entrance of her condo.

## **REQUESTING REASONABLE ACCOMMODATIONS & MODIFICATIONS**

### **Making the Request**

It is the responsibility of the tenant to make the request for a reasonable accommodation or reasonable modification. Requests can be made at any point during tenancy.

### **Proof of Disability**

After the request is made for the reasonable accommodation or reasonable modification, the housing provider can ask for documentation connecting the disability to the reasonable accommodation or reasonable modification if the disability is not apparent.

### **Who Can Provide Documentation?**

This letter may come from a health care provider or social service professional, or anyone who has knowledge of the person's disability and can confirm the disability and the person's need for the reasonable accommodation or reasonable modification.

## **Letter Stating Need for RA/RM**

The letter is not required to disclose the diagnosis, nature, or extent of disability but can include the information the person making the request feels comfortable with disclosing. The letter only needs to state that the reasonable accommodation or reasonable modification is related to the disability and is necessary for equal enjoyment of the housing unit.

**A housing provider is not permitted to ask a person with a disability any questions about the nature or extent of their disability.**

**For example, a housing provider cannot ask:**

- How long have you been using a wheelchair?
- Are you able to walk up and down the stairs on your own?
- What medication do you take to treat your disability?
- Why do you receive SSI?
- You don't look like you need a service animal, why do you have one?



## **WHAT DO I NEED TO INCLUDE IN THE LETTER?**

A person with a disability is free to disclose as much information as they feel comfortable revealing about their disability, but in no way is required to reveal any information about the nature or extent of their disability.

A housing provider can ask for proof of a connection between the disability and the requested accommodation or modification.

If a tenant is requesting a letter from a medical or social service provider, the letter only needs to state that the requested accommodation or modification directly relates to the disability. Please see pages 52-58 for sample letters.

***Please note that housing authorities, rental companies, or property managers sometimes supply RA/RM request forms to tenants. However, a person may always choose to compose their own letter instead. Housing providers cannot require tenants to use the forms they provide.***

## **WHEN CAN A HOUSING PROVIDER DENY A REQUEST?**

A housing provider can deny a reasonable accommodation or reasonable modification request if and only if one of the following is true:

- Creates an undue financial and administrative burden
- Is a fundamental alteration of the provision of housing
- The request is unrelated to disability

## WHAT IF I THINK MY REQUEST HAS BEEN UNJUSTLY DENIED?

Unless the accommodation or modification creates an ***undue financial and administrative burden***, is a ***fundamental alteration of the provision of housing***, or is ***unrelated to disability***, the housing provider must grant it.

If you feel that a reasonable accommodation or reasonable modification request has been unfairly denied or if you are unsure, you should contact a local fair housing agency, the Ohio Civil Rights Commission (OCRC), the Department of Housing and Urban Development (HUD), or seek legal counsel.



### FAIR HOUSING IN ACTION

A case worker contacted The Fair Housing Center on behalf of a client with a disability whose landlord threatened to take away her ramp that she obtained through a reasonable modification request. The Fair Housing Center advised the social worker about her client's fair housing rights, who then reported back to her client and the landlord. Once the landlord learned about his tenant's fair housing rights, he agreed to maintain the reasonable modification ramp at the property.

## **SERVICE ANIMALS AND FAIR HOUSING**

**The Americans with Disabilities Act (ADA) and Fair Housing Act do not have the same definition of service animals.**

Therefore, it is important for housing providers, people with disabilities, and medical and social service providers to understand the difference. The ADA service animal guidelines changed on March 15, 2011 and are more specific and restrictive than the fair housing laws. ADA restricts animals in public accommodations to trained dogs and miniature ponies.

**The Fair Housing Act** offers a broad definition of what animals are permissible in housing. Because of the wide variety of tasks animals are able to perform in a home for a person with a disability, no specific animals are specifically named or excluded in the law.

### **WHAT ACCOMMODATIONS DO FAIR HOUSING LAWS PERMIT IN HOUSING?**

The HUD guidelines for reasonable accommodations offer a broader definition of “service animal.”

There is **no training requirement for or specific animal defined as** a “service animal” for use in the home. People with disabilities can need an animal for various reasons. **Service or assistance animals** can help with specific tasks such as guiding an individual who is visually impaired, fetching items, or alerting a person who is deaf to sounds.

Fair Housing Laws also allow for **Emotional Support Animals**. An emotional support animal may help relieve depression and anxiety, and/or help reduce stress-induced pain in persons with certain medical conditions.

Because of the broad definition of service/assistance/emotional support animals, training is often not necessary for them to carry out their purpose and therefore, training is not a requirement for the animal under fair housing laws.

# REQUESTING A SERVICE, ASSISTANCE, OR EMOTIONAL SUPPORT ANIMAL

## A housing provider can:

- Ask for proof of a connection between the need for the service animal and the disability, if the disability is not apparent.
- Exclude a service animal from a housing complex when the animal's behavior constitutes a direct threat and its owner takes no effective action to control the animal's behavior so that the threat is mitigated or eliminated.

## A housing provider cannot:

- Charge a "pet deposit" for a service animal.
- Exclude an assistance animal for a speculative risk—cannot be the result of fear or speculation about the types of harm or damage an animal may cause, or evidence about harm or damage caused by other animals.

*(Joint Statement Of The Department Of Housing And Urban Development and The Department Of Justice: Reasonable Accommodations Under The Fair Housing Act, 2004)*

## FAIR HOUSING IN ACTION

The Justice Department charged a Connecticut housing provider with violating fair housing laws when he refused to allow a tenant's daughter to have an assistance animal. The service animal helps the daughter with symptoms from cerebral palsy, a seizure disorder, and depression. In addition to not allowing the assistance animal, the housing provider retaliated against the mother and daughter after they attempted to exercise their rights under the Fair Housing Act by refusing to renew their lease and beginning eviction proceedings.

# COMMON SERVICE, ASSISTANCE, OR EMOTIONAL SUPPORT ANIMAL FAIR HOUSING VIOLATIONS

Housing providers are required to grant reasonable accommodations for tenants that need a service, assistance, or emotional support animals in order to equally enjoy the housing.

## Examples of Violations:

- A housing provider will not allow a dog over 25 pounds as a service animal in his property because he only allows dogs under 25 pounds.
- A prospective tenant goes to see a unit on the second floor of a building. The tenant mentions she has an assistance animal. The housing provider tells her dogs are only allowed on first floor units and that there are currently no first floor units available.

*Service, assistance, or emotional support animals are not considered a pet, therefore the rules a housing provider has for a pet do not apply. This also means a housing provider cannot charge pet fees, pet deposits, or pet rent for an animal needed as an accommodation.*

- A tenant with an anxiety disorder makes a reasonable accommodation request to have an emotional support animal, which is a cat. The housing provider denies the request stating that service animals can only be specially trained dogs.

*Service, assistance, or emotional support animals in housing can be a wide variety of animals. No matter what type of animal, special training is not a requirement. Many of the tasks these animals perform, such as offering comfort, do not require training.*



# **SAMPLE LETTERS**



# **LETTER: REASONABLE ACCOMMODATION**

*From Person with Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Accommodation, Notification of Construction, [Tenant Address]

Dear [Housing Provider]:

I live [or will be living] in [Address, Unit Number]. I am writing because I have a disability that substantially limits my ability to read, as defined by and covered under the Federal Fair Housing Act. In order to have equal opportunity to use and enjoy the housing unit, I am requesting a reasonable accommodation to be verbally notified of construction or maintenance projects in the building or on the property.

Federal and state law permits reasonable accommodation because such accommodations afford people with disabilities equal opportunity to use and enjoy the housing unit. I am happy to provide a letter from someone who has knowledge of my disability, as it may not be readily apparent, to confirm that my need for the reasonable accommodation is related to my disability.

Sincerely,

[Tenant Name]

## **LETTER: REASONABLE ACCOMMODATION**

*From Someone with Knowledge of Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Accommodation, [Tenant Name and Address]

Dear [Housing Provider]:

I am writing regarding my [Client/Patient], [Name] a tenant at [Address]. [Name] has a disability which substantially limits his/her major life activity of reading. His/her disability requires a reasonable accommodation to be verbally notified of construction or maintenance projects in the building or on the property as it will allow him/her an equal opportunity to use and enjoy the housing unit.

Sincerely,  
[Name]

## **LETTER: REASONABLE MODIFICATION**

*From Person with Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Modification, Grab Bars in Bathroom, [Tenant Address]

Dear [Housing Provider]:

I live [or will be living] in [Address, Unit Number]. I am writing because I have a disability, as defined by and covered under the Federal Fair Housing Act. In order to have equal opportunity to use and enjoy the housing unit, I am requesting a reasonable modification to have grab bars installed in the bathroom. The modification will be done in a workmanlike manner, I will obtain all the appropriate permits, and I am more than willing to discuss the designs and details of the modification with you.

Federal and state law permits reasonable modifications to housing units because such modifications afford people with disabilities equal opportunity to use and enjoy the housing unit. I am happy to provide a letter from someone who has knowledge of my disability, as it may not be readily apparent, to confirm that my need for the reasonable modification is related to my disability.

Sincerely,

[Tenant Name]

## **LETTER: REASONABLE MODIFICATION**

*From Someone with Knowledge of Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Modification, Grab Bars in Bathroom, [Tenant Name and Address]

Dear [Housing Provider]:

I am writing regarding my [Client/Patient], [Name] a tenant at [Address]. [Name] has a disability that substantially limits their balance and mobility. His/her disability requires a reasonable modification of installing grab bars in the bathroom in his/her unit as it will allow him/her equal opportunity to use and enjoy the housing unit.

Sincerely,  
[Name]

## **LETTER: SERVICE ANIMAL**

*From Person with Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Accommodation, Service Animal,  
[Tenant Address]

Dear [Housing Provider]:

I live [or will be living] in [Address, Unit Number]. I am writing because I have a disability which substantially limits my mobility, as defined by and covered under the Federal Fair Housing Act. In order to have equal opportunity to use and enjoy the housing unit, I am requesting a reasonable accommodation to have a service animal despite your “no pets policy.”

Federal and state law permits service animals as reasonable accommodations to live in the housing unit despite a “no pet policy” because service animals can afford people with disabilities equal opportunity to use and enjoy the housing unit. I am happy to provide a letter from someone who has knowledge of my disability, as it may not be readily apparent, to confirm my need for a service animal is related to my disability.

Sincerely,

[Tenant Name]

## **LETTER: SERVICE ANIMAL**

*From Someone with Knowledge of Disability*

[Date]

[Housing Provider]

[Address]

Re: Request for Reasonable Accommodation, Service Animal,  
[Tenant Name and Address]

Dear [Housing Provider]:

I am writing regarding my [Client/Patient], [Name] a tenant at [Address]. [Name] has a disability which substantially limits his/her mobility. His/her disability requires the use of a service animal as it will allow him/her an equal opportunity to use and enjoy the housing unit.

Sincerely,

[Name]

## “NEW CONSTRUCTION” REQUIREMENTS

When the Fair Housing Amendments Act passed in 1988, “new construction” laws were put in place to ensure that multi-family housing with 4 or more units was built accessible for people with disabilities. Any building that meets the criteria and was built for first occupancy as of March 13, 1991 must be built with certain accessible features. There are 7 new design requirements for this new construction:

- **An accessible building entrance on an accessible route.**  
*Can a person using a wheelchair get from the parking lot into the buildings? Are there curb cuts? Is there a steep slope that may be difficult to navigate? Are the doors wide enough?*
- **Accessible common and public use areas.**  
*Can a person using a wheelchair access common areas; lobby, pool, picnic areas, mailboxes, and laundry room?*
- **Usable doors (usable by a person in a wheelchair).**  
*Are the doors wide enough? Is there a high threshold in the doorway which makes it difficult to enter? Are the doors extremely heavy and difficult to open? Is there lever hardware on the main building entrance and the unit entrance?*



## **“NEW CONSTRUCTION” REQUIREMENTS**

- **Accessible route into and through the dwelling unit.**  
*Is the entrance to the apartment wide enough to accommodate a wheelchair? Can a person using a wheelchair get from one room to another without encountering narrow doorways or high thresholds?*
- **Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.**  
*Are light switches and temperature controls low enough to be reached by a person using a wheelchair? Are outlets high enough to be reached by a person in a wheelchair?*
- **Reinforced walls in bathrooms for later installation of grab bars.**  
*If a person needed to install grab bars, would the reinforcement already exist behind the wall to support adding this feature?*
- **Usable kitchens and bathrooms**  
*Can a person using a wheelchair easily access the sink using a parallel approach? If the kitchen is too small to accommodate a parallel approach, is there knee space below the sink to make it accessible? Can a person enter the bathroom and close the door behind them and have enough clear floor space?*

### **INSTANCES WHERE HOUSING PROVIDER MAY HAVE TO PAY:**

- If you need a reasonable modification in a multi-family building and you think that the building was constructed after March 13, 1991, the housing provider may need to pay for the modification.
- If you live in a building that receives federal financial assistance and need a reasonable modification, the housing provider may need to pay for the modification.

*Contact your local fair housing agency for questions about who would need to pay for the modification you are requesting.*

# EMERGING ISSUES IN FAIR HOUSING

As The Fair Housing Center monitors factors that influence the ability for our communities to offer equitable access to housing, it is important to acknowledge several emerging issues that may create barriers to fair housing. While these categories are not explicitly designated as protected classes under federal fair housing law, certain policies and practices may still result in protected classes being disparately impacted. This section will focus on three key emerging issues that perpetuate racial segregation and hinder folks' equal access to the housing of their choice: **source of income, criminal background screenings, and criminal activity nuisance ordinances.**

## SOURCE OF INCOME

Although Source of Income (SOI) is not currently a protected class at the federal or state level, a number of municipalities have enacted laws prohibiting Source of Income discrimination in our communities. This means that landlords cannot discriminate against people who hold Housing Choice Vouchers (HCV), formerly called Section 8, and other sources of income.

### Source of Income can include:

- Housing Choice Vouchers
- Social Security
- Supplemental Security Income (SSI)
- Unemployment Insurance
- Veteran's Benefits

## **Source of Income & Disparate Impact:**

In 2016, The Fair Housing Center examined housing patterns of participants in the Housing Choice Voucher Program (HCVP) in Cuyahoga County. HCVP participants, 89.6% of whom are African American, are clustered in areas with high concentrations of poverty, crime, low educational opportunities, and high exposure to environmental health hazards. When surveyed, the majority of HCVP participants responded that they desire to live in areas with low crime rates and high quality schools and many also want to live in areas with low poverty. Nearly 80% of HCVP participants surveyed reported that one barrier to finding housing is that landlords refuse (legally in most of Cuyahoga County) to accept housing vouchers, the most reported challenge. This study, which can be found online at <https://bit.ly/2PIPxiw>, explores the role housing providers play in limiting the housing choices of HCVP participants in Cuyahoga County: how refusal to take a voucher might serve as a proxy for race-based discrimination and how limited housing choices perpetuate racial segregation.

Source of income discrimination may be legal in most places, but research shows that it often results in a disparate impact for African American renters. “Disparate impact” refers to a seemingly neutral policy that disproportionately impacts a group of persons on the basis of a protected trait under the Fair Housing Act. Using disparate impact analysis, the act of refusing to accept a voucher in Cuyahoga County may violate the Fair Housing Act on the basis of race regardless of the intent of the housing provider to discriminate based on race.

## **The following Northeast Ohio communities that have added SOI as a protected class:**

- Linndale
- South Euclid
- University Heights
- Warrensville Heights
- Wickliffe



# CRIMINAL BACKGROUND SCREENING

## HUD's Criminal Background Rule

The Fair Housing Act prohibits discrimination in housing based on membership in groups called protected classes. These classes include race, color, national origin, religion, sex, family status, and disability. While federal law does not prohibit criminal background screening, The U.S. Department of Housing and Urban Development (HUD) released guidance about how the Fair Housing Act applies to housing policies with regard to criminal background checks.

Criminal background checks are often used as screening criteria for rental housing to determine qualified applicants. For those with a criminal history, these screenings have become a barrier to obtaining housing. Many formerly incarcerated individuals, who have paid their debt to society, face continued penalties outside of the courts by being excluded from much of the housing market. HUD recognizes racial and ethnic disparities in the criminal justice system including disproportionate and unequal rates of arrests and convictions, and harsher sentencing of African Americans and Latinx populations in particular. The result of this disparity is a disproportionate burden on these protected classes, which can be a violation of the Fair Housing Act. Therefore, HUD has released guidance to address this housing obstacle.

In 2016, HUD issued guidance on applying Fair Housing Act Standards to the use of criminal records screening in housing-related transactions.

### **This guidance prohibits landlords from:**

- Denying housing based on arrest records.
- Blanket bans on renting to anyone with a criminal history.
- Conducting background checks inconsistently, performing them on some and not others based on stereotypes or fear.

### **Further, a landlord must:**

- Consider individuals on a case-by-case basis and evaluate the nature and severity of the crime, and consider the length of time that has passed since that crime was committed.
- Make a determination based on facts and evidence, and not a perceived threat.

### **Denial Based on Criminal History**

Individuals can legally be denied housing if their recent criminal history makes them dangerous and a risk to other tenants or neighbors. The denial must be based on reliable evidence and not be hypothetical or speculative. If challenged, a housing provider must be able to:

- Provide evidence proving that the housing provider has substantial, legitimate, nondiscriminatory interest supporting the denial.
- Show that the housing policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety/property and criminal conduct that does not.

HUD regulations governing some federally-assisted housing require only two permanent bans: applicants with a lifetime requirement to register as a sex offender, and applicants convicted of manufacturing methamphetamine on federally-assisted property.

### **Examples of Possible Criminal History Discrimination**

- A housing provider will not rent to a male tenant because he served time in prison for robbery or drug possession 30 years ago, but has not been in trouble with the law since.
- A housing provider automatically discards any applications where the potential renter has checked the box inquiring if they have ever been convicted of a felony.
- A housing provider uses the person's criminal history to deny housing as a means to discriminate on another basis, such as the person's sexual orientation, disability or national origin.
- An individual has a criminal record due to a past drug addiction, but has since successfully completed a rehabilitation program. (Recovering from drug addiction is considered a disability under the Fair Housing Amendments Act of 1988 that prohibits discrimination based on disability, and includes additional protections such as reasonable accommodations and reasonable modifications.)

## **CRIMINAL ACTIVITY NUISANCE ORDINANCES**

**Criminal activity nuisance ordinances (CANOs)** are municipal laws that penalize property owners for occurrences of crime and other “nuisance behaviors” on or near their property. Such laws list specific behaviors that are classified as a nuisance. Often, CANOs define a timeline wherein if a specified number of “nuisance” activities occur, the jurisdiction will require the property owner to “abate” the nuisance or face a penalty.

Eviction is the most common landlord response to a nuisance notification. This increases housing instability and can exacerbate behavior that triggered the nuisance citation, such as domestic violence. Once a person has an eviction record, it is much more difficult to obtain housing. Survivors of domestic violence may not have the immediate financial means available to secure alternate housing, and therefore, many survivors of domestic violence face homelessness upon eviction. Threats of eviction or a nuisance citation may also cause a survivor to avoid calling the police for assistance, fearing a phone call for help could jeopardize their current and future housing options. Nuisance ordinances that include domestic violence have a disproportionate impact on women.

A landlord unsure of how to handle this type of situation should contact their attorney for legal advice or The Fair Housing Center for information.

## Criminal Activity Nuisance Ordinances: Common Scenarios

- The neighbors called the police because of screams coming from my apartment. My abuser ran off before the police got there. A week later, I was served with an eviction notice for violating the City's nuisance ordinance.
- My neighbors called the police on my son and his friends for making noise while playing basketball in our back yard. Now my landlord is threatening that we will be evicted if it happens again because they got a CANO warning letter from the City.
- My sister has been struggling with a substance use disorder for years. She is trying to get clean, but recently relapsed. She overdosed and her partner called 911 to save her life. Now the landlord is evicting her as a result of a CANO letter from the City.
- I operate a group home for adults with disabilities. Sometimes our residents experience a mental health crisis and the staff have to call the police for help. Now we are being told that we have to evict the residents who have had a mental health crisis or pay fines we cannot afford.
- My rental application was recently denied because the landlord said that my name was on a nuisance list with the City. I never received any notice regarding this issue from the City.



# FILING A FAIR HOUSING COMPLAINT

## **What if I have a complaint?**

Call a local fair housing agency if you feel that you have been a victim of discrimination. They can help you file a complaint with HUD and advocate for you in the process. A list of local fair housing organizations is listed on page 62. You may also choose to file on your own, which you can do on HUD's website.

## **How long do I have to file a complaint?**

You have up to one year to file a complaint with HUD from the date the alleged discrimination took place. However, it is best to file the complaint as soon as possible.

## **What happens after I file the initial complaint?**

After HUD has received the initial information, an intake specialist will contact you and interview you to collect facts about the alleged discrimination. Initial interviews are normally conducted by telephone. If it is found that the case is something HUD has jurisdiction over, HUD will accept the case.

If the alleged discrimination happened in a state or locality in HUD's Fair Housing Assistance Program (FHAP, listed on page 63), HUD will refer the complaint to that agency to investigate.

## **What are the possible outcomes?**

If either party elects to have the case heard in federal court and the court finds that discrimination has or is about to occur, the court can award actual and punitive damages and attorneys' fees.

If neither party elects to have the case heard in federal court, the case will be heard by a HUD Administrative Law Judge (ALJ). If the ALJ finds that discrimination has or is about to occur, they can award a civil penalty in addition to actual damages, injunctive or equitable relief, and attorneys' fees. (*HUD's Title VIII Fair Housing Complaint Process, Portal.HUD.gov*)

# WHO TO CONTACT WITH FAIR HOUSING ISSUES

## LOCAL FAIR HOUSING ORGANIZATIONS:

### ***Fair Housing Center for Rights & Research***

2728 Euclid Avenue, Suite 200  
Cleveland, OH 44115  
(216) 361-9240  
[www.thehousingcenter.org](http://www.thehousingcenter.org)

### ***Fair Housing Contact Service, Inc.***

441 Wolf Ledges Parkway, Suite 200  
Akron, OH 44311  
(330) 376-6191  
<http://fairhousingakron.org/>

### ***Fair Housing Resource Center, Inc.***

1100 Mentor Avenue  
Painesville, OH 44077  
(440) 392-0147  
<https://fhrc.org/>

### ***Housing Opportunities Made Equal of Greater Cincinnati, Inc.***

2400 Reading Road, Suite 118  
Cincinnati, OH 45202  
(513) 721-4663  
<https://homecincy.org/>

### ***Miami Valley Fair Housing Center, Inc.***

505 Riverside Dr.  
Dayton, OH 45405  
(937) 223-6035  
<http://www.mvfairhousing.com/>

### ***Toledo Fair Housing Center***

432 North Superior Street  
Toledo, OH 43604  
(419) 243-6163  
<https://www.toledofhc.org/>

# WHO TO CONTACT WITH FAIR HOUSING ISSUES

## **STATE AGENCY:**

### ***Ohio Civil Rights Commission***

30 East Broad Street, 5th Floor

Columbus, OH 43215-3414

Toll Free Number: 1-888-278-7101

<https://crc.ohio.gov/>

## **LOCALITIES:**

### ***City of Canton Fair Housing Commission***

218 Cleveland Avenue SW, 5th Floor

Canton, OH 44702

(330) 438-4133

<https://www.cantonohio.gov/271/Fair-Housing>

### ***Dayton Human Relations Council***

371 West 2nd Street, Suite 100

Dayton, OH 45402

(937) 333-1413

<http://daytonhrc.org/>

### ***Shaker Heights Fair Housing Review Board***

3400 Lee Road

Shaker Heights, OH 44120

(216) 491-1440

<https://shakeronline.com/323/Fair-Housing-Review-Board>

