

# *Fair Housing Essentials*



Why judge a book by its cover?  
A renter is a renter.

*The Apartment Guy*  
Professional Seminars Property Marketing

***There is no room for discrimination in multifamily housing!***

In this overview course, we will review the housing guidelines set forth by the Federal Fair Housing Act and ways to comply with this law.

What is fair housing?

Compliance with Federal Fair Housing Law

What is the intended purpose of the Fair Housing Law?

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What national tragedy sparked the signing of the **Civil Rights Act of 1968**, of which the **Federal Fair Housing Act** was a part?

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The four initial protected classes in 1968 were:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_



In 1974, another class was added:

5. \_\_\_\_\_

On September 13, 1988, the law was further amended by adding two additional classes, to make a total of 7:

6. \_\_\_\_\_
7. \_\_\_\_\_

## Fair Housing Essentials

To review, what are the seven protected classes covered under the Federal Fair Housing law?

**1.** \_\_\_\_\_

**2.** \_\_\_\_\_

**3.** \_\_\_\_\_

**4.** \_\_\_\_\_

**5.** \_\_\_\_\_

**6.** \_\_\_\_\_

**7.** \_\_\_\_\_

What is a fun phrase to help you remember the seven protected classes?

**R** \_\_\_\_\_

**C** \_\_\_\_\_

**R** \_\_\_\_\_

**N** \_\_\_\_\_

**S** \_\_\_\_\_

**H** \_\_\_\_\_

**F** \_\_\_\_\_

Which is the most important of these 7 protected classes?

\_\_\_\_\_  
\_\_\_\_\_

What's the "good rule of thumb"?

\_\_\_\_\_  
\_\_\_\_\_

What are three key words to remember?

**1.** \_\_\_\_\_

**2.** \_\_\_\_\_

**3.** \_\_\_\_\_

*Fair Housing Essentials*

***RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, HANDICAP & FAMILY***

***Define the terms***

RACE:

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COLOR:

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RELIGION:

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NATIONAL ORIGIN:

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SEX:

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HANDICAP STATUS:

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FAMILIAL STATUS:

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## *Handicap Status*

A Handicap, according to the law, is anything that restricts a major life activity. This includes physical as well as mental handicaps. This has also been broadened to include terminal illnesses such as cancer and AIDS, and persons in recovery from alcohol or drug addiction.

It doesn't have to be OBVIOUS to be COVERED. What does this mean?

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Two phrases to keep in mind to comply with the Handicap Status provision:

- \* **Reasonable Accommodation**
- \* **Reasonable Modification**



What is the definition of Reasonable Accommodation?

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What are some examples of Reasonable Accommodations?

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What is the definition of Reasonable Modification?

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What are some examples of Reasonable Modifications?

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***Handicap Status and New Construction***

Properties constructed after **March of 1991** must meet certain requirements according to Fair Housing law and the A.D.A. Some of these are:



- \* Public and common areas must be \_\_\_\_\_.
- \* Doors and hallways must be \_\_\_\_\_ to accommodate wheelchairs.
- \* There must be an accessible \_\_\_\_\_ through and into the unit.
- \* All \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ must be accessible.
- \* Walls in bath must be reinforced for \_\_\_\_\_ installation.
- \* Kitchens and bathrooms must be \_\_\_\_\_ accessible.

There are additional state and city codes to be aware of as well.

Important Points to remember:

- \* A property does not have to hold its handicap accessible units for use only by handicapped persons.
- \* A handicapped person may choose any apartment that is available in the community, and has the right to have that unit “reasonably modified” should they so desire.
- \* Wheelchair residents do not have to choose apartments only on the first floor, even if there are not elevators in your community. However, adding an elevator or lift would not be considered a “reasonable modification” and would not have to be paid for by the property owner.
- \* Service animals are not to be treated as pets under your lease – meaning no pet agreement, pet deposit or pet rent is due.
- \* Any animal can be considered a service animal as long as a doctor’s note is included in your file, which merely says that the animal is required – the note should **NOT** state the illness or handicap of the resident.

***Familial Status***

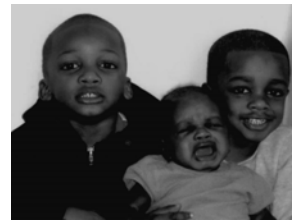
Unless a community qualifies as housing specifically for older persons, meaning retirement or assisted living, it may not discriminate based on Familial Status. That means a community may not discriminate against families with one or more children under age 18 living with:

- \* A parent
- \* A person who has legal custody of the child or children
- \* A designee of the parent or legal guardian
- \* Persons securing custody through adoption or other means

This also means a community cannot reverse discriminate – choosing to rent to only families and not renting to single persons. This is why in some cities; one bedroom only properties were built after 1988 to encourage the “single” lifestyle.

Problem questions that can get you into trouble with the Familial Status provision:

- ? How many kids do you have?
- ? Who will be living with you?



What is the correct question you should be asking your prospects?

- ? How many \_\_\_\_\_ will occupy the apartment?

Remember your **occupancy standards** at all times! A common mistake is that someone will ask a prospect how many people will occupy the apartment, and a prospect will reply “just me and my three kids.” Then the leasing agent may reply, “you have too many kids for that one bedroom apartment.” What is wrong with this statement?

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*Rodeo Clowns Really Never Should Have Families...*

What were those seven protected classes again?

- 1. **R** \_\_\_\_\_
- 2. **C** \_\_\_\_\_
- 3. **R** \_\_\_\_\_
- 4. **N** \_\_\_\_\_
- 5. **S** \_\_\_\_\_
- 6. **H** \_\_\_\_\_
- 7. **F** \_\_\_\_\_



Local regulations can be even more restrictive than the federal fair housing law. If you look at the list of seven protected classes, you can likely think of another group or type of individual that would not be protected. Many cities and states have considered this and added additional groups or classes to their laws.

Just some of the more common protected classes added across the nation...

*Age*  
*Sexual Orientation*  
*Ancestry*  
*Military Reservist Status*

*Military Discharge Status*  
*Weight or Poor Health*  
*Terminal Disease Status*  
*Place of Employment*

*Public Assistance*  
*Source of Income*  
*Parental Status*  
*Appalachian Origin*

Are there are any additional protected classes **in your state**?

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What about **in this city** or a neighboring municipality?

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**THE POINT:** Discriminate against no one and you will always be in compliance!

***Compliance with the Law***

- ? Is it optional to comply? ***NO!***
- ? Can a leasing agent be sued individually? ***YES***
- ? Could your company be sued also? ***YES***

What happens when HUD receives a complaint from someone alleging discrimination?

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How long does a person have to file a complaint with HUD alleging discrimination?

\_\_\_\_\_ year

How long does a person have to file a private, civil suit alleging discrimination?

\_\_\_\_\_ years

How many days does a property have to respond to a complaint? \_\_\_\_\_

It is important to do some internal research if you ever receive a complaint, so that your facts are straight and you can defend yourself in case the complaint goes to court or trial.

- \* Establish the relevant facts of the case
- \* Provide details that support your position
- \* Don't speculate or provide resident stats to investigators – it is a trick!
- \* Provide supporting references

If discriminatory practices are found from an investigation, damages can be assessed to the plaintiff (complainant). Both Actual and Punitive damages can be awarded.

What are “actual damages” ?

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## *Fair Housing Essentials*

What are “punitive damages” ?

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All of the following could be viewed as discriminatory by a prospect or a tester:

- \* Refusing to rent based on any protected criteria
- \* Discrimination in terms, conditions, pricing
- \* Discriminatory advertising
- \* Refusal to show available units
- \* Refusal to supply information
- \* Steering
- \* Denying or false representation of availability
- \* Not making reasonable accommodations or modifications

*How can you protect yourself?*

- \* Proper \_\_\_\_\_.
- \* Written \_\_\_\_\_.
- \* Apply all standards to \_\_\_\_\_ residents as well as prospects.
- \* Have a \_\_\_\_\_ leasing process.
- \* Avoid \_\_\_\_\_.
- \* Keep \_\_\_\_\_.
- \* Define a \_\_\_\_\_.
- \* Don't disclose \_\_\_\_\_.

**Train everyone on your staff** -- anyone who comes into contact with a resident!

## Fair Housing Essentials

### Proper Documentation

Why is it important to keep records and documentation of all of your interactions with prospects and current residents?

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Keep all of your \_\_\_\_\_ for at least \_\_\_\_\_ years.

Keep all of your \_\_\_\_\_ applications for at least \_\_\_\_\_ years.

Keep all \_\_\_\_\_ requests for at least \_\_\_\_\_ years.

Keep all of your printed unit status or rent roll reports for at least \_\_\_\_\_ years – not just the computer back up!

When you are adding a note to a file, what 3 things should it always include?

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### Current Residents

All fair housing standards apply to your current residents too! Always document any problem or interaction with current residents and keep a copy in their files.

Make all repairs promptly for all residents – don't do special favors for one resident and not another.

Enforce your community rules consistently and fairly! Apply all rules to all residents.

When prioritizing service requests, you should serve people in the order the request was called in – no other factor applies unless it is an actual emergency in the unit.

### Occupancy Standards

Your management company should have written occupancy standards printed in your offices.

**??** What is your community's occupancy standard?

\_\_\_\_\_ persons per bedroom.

## Fair Housing Essentials

If you do not have written occupancy standards, it is important to create them and make them a part of your leasing book as well as posted in your leasing office. A good rule of thumb to remain in compliance is no more than:

**2** persons per bedroom – this is HUD's recommendation.

Why do we have occupancy standards?

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Occupancy standards are set for reasons of public health and safety. They are not there to unfairly force people to abide to a standard! Sometimes you may receive a complaint that your occupancy standards discriminate against a family's culture. This is not the case.

### *Consistent Leasing Process*

- \* A leasing agent should always fill out guest cards \_\_\_\_\_.
- \* It is necessary to get \_\_\_\_\_ all of the time!
- \* Don't photocopy driver's licenses / IDs of prospects
- \* Provide resident qualification criteria or offer it to everyone – the best place for it is the flip side of your price sheet.
- \* Offer everyone an \_\_\_\_\_.

### *Steering*

What is steering?

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- \* Never suggest areas of a community that may be more suitable to families or singles.
- \* Only **point out** amenities, do not suggest use or avoidance.
- \* Mention all items, features and amenities to all residents – for instance don't mention a "tot lot" only to families with children.
- \* Make all model apartment homes and show units available to or accessible by everyone. Wherever possible, your model apartment homes should be on the first floor and easily accessible to your leasing office.
- \* When leasing to a family with small children, you should never make suggestions that they avoid certain areas of a community or certain unit types. Let them come to their own decisions about what is best for them.

### ***Define a Tour Route***

Why is this important?

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- \* Shop each leasing associate to determine who has the best route, or combine the best elements of each
- \* Do not deviate from your tour route, unless specifically asked to
- \* Show all amenities and features to all residents

### ***Resident Statistics***

Don't volunteer resident information or comment about the race, religion, color, national origin, sex, familial status or handicap status of any person or group of residents at your community -- even when asked directly or indirectly by a prospect. Also, if you are asked for this information from a representative from HUD or a fair housing organization – they are trying to trick you! You cannot give this information out.

Be on the lookout for questions like:

- ? What kind of people live here?
- ? Are there a lot of families in this community?

What is the best answer to this type of question?

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Know the location of your office's federal fair housing poster and make a copy for your leasing book. If you have prospects that persistently ask you questions you cannot answer, you can refer to the poster and explain that the law prohibits you from answering questions like that.

### ***Advertising***

All forms of advertising should be considered for violations of the Federal Fair Housing law. It is important to review your advertising regularly to ensure compliance. Don't use photographs of people – it is too risky! Be sure that your ad also doesn't mention items like "close to the church/synagogue" or something like that than could be considered leaning towards a particular group.

Photos and scrapbooks in your leasing office are considered advertising too!

***Shoppers / Testers***

What is a shopper?

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What are shoppers looking for?

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Don't encourage prospects to come back in the evening and drive around, "just to see for themselves." This can be considered to be encouraging discrimination by the prospect.

***Protect Yourself***

- \* Don't \_\_\_\_\_ .
- \* Review \_\_\_\_\_ regularly for potential fair housing issues
- \* Establish a set \_\_\_\_\_ and don't deviate from it
- \* Establish a service policy that ensures \_\_\_\_\_ are responded to in a timely manner
- \* Train all of your staff – anyone who comes in to contact with \_\_\_\_\_ or \_\_\_\_\_ .

***Keep in mind these crucial points***

- \* Establish occupancy standards
- \* Proper documentation
- \* Use guidelines with existing residents
- \* Consistent leasing process
- \* Avoid steering – and define a tour route
- \* Keep everything!
- \* Never disclose stats and be on the lookout for shoppers!

## **Quiz**

1. According to the Federal Fair Housing Law, it is illegal to discriminate on the basis of: **(Remember – R, C, R, N, S, H, F)**

- |          |          |
|----------|----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ |          |

2. It is acceptable to ask a prospect how many adults and children will be living in the apartment?

TRUE                      FALSE

3. Your property may designate family and adult sections.

TRUE                      FALSE

4. You may designate an adult-swim time, meaning children are not allowed at the pool during a set period during your regular operating hours.

TRUE                      FALSE

5. If a disabled person leases an apartment at your community, they have the right to make any necessary alterations at their own expense.

TRUE                      FALSE

6. You notice that a prospect has two children; you tell them that your property does not have a playground facility but is close to the city park. Could this be steering?

YES                        NO

7. If a prospect has a seeing eye dog, they may lease an apartment even if you don't allow large pets. However, they must put up a full pet deposit charged to other residents with pets.

TRUE                      FALSE

8. You may refuse to rent to someone of a protected class due to their bad credit and poor rental history?

TRUE                      FALSE

9. An individual can file a complaint with HUD up to one year after the alleged discriminatory housing practice occurs.

TRUE                      FALSE

10. Anyone who feels that they have been discriminated against can file a lawsuit in Federal Court and may receive actual and punitive damages.

TRUE                      FALSE

## *Fair Housing Essentials*

11. The Federal Fair Housing Law states that properties must make reasonable accommodations and modifications for individuals with the following disabilities except:

- A. Mental Retardation
- B. Physical Disorder
- C. An Individual with AIDS
- D. A current illegal user of a controlled substance

12. Which of the following employees should attend Fair Housing training?

- A. Housekeeping staff
- B. Leasing Consultants
- C. Maintenance Supervisors
- D. All of the above

13. If a blind prospect with a 70 lb. service animal wants to rent an apartment in your community, but you do not allow pets over 20 lbs, you have the right to refuse rental to this person.

TRUE                      FALSE

14. The protected class "Familial Status" is designed to protect families, or those households that include children under 18 years of age.

TRUE                      FALSE

15. When asked, "What kind of people live here?" It is all right to respond by saying "we have professionals, families, couples – a little bit of everyone."

TRUE                      FALSE

16. All guest cards, service requests and rejected rental applications are required to be kept on file for a minimum of one year.

TRUE                      FALSE

17. If a disabled individual requests that the carpet in their 3 bedroom apartment be replaced with lower pile carpet or vinyl tile, the property is responsible for the cost of this modification.

TRUE                      FALSE

18. If a disabled individual requests that specific modifications are made to the interior of the apartment home, the property is responsible for all costs associated with these modifications.

TRUE                      FALSE                      DEPENDS

19. When advertising your community, you would want to use phrases or illustrations that would illustrate what type of people you would want living in your community.

TRUE                      FALSE

20. The Fair Housing law changed a lot in 1988, including the addition of two protected classes, Handicap Status and Familial Status.

TRUE                      FALSE

## Fair Housing Essentials

21. Occupancy standards are set for reasons of public health and safety.  
TRUE FALSE
22. A handicap is any physical or mental impairment that restricts a major life activity.  
TRUE FALSE
23. If your community has specific apartment homes that are designed to be handicap accessible, you must hold these for prospects with disabilities only.  
TRUE FALSE
24. According to the Fair Housing Law, it is permissible to ask a prospect what their disability is if they request a service animal.  
TRUE FALSE
25. A disabled individual, confined to a wheelchair, must reside in a 1<sup>st</sup> floor apartment home if your community does not have elevators.  
TRUE FALSE
26. It is perfectly acceptable to have photographs in your advertising that contain just one or two residents or models.  
TRUE FALSE
27. When complying with fair housing laws, it is only important to comply with the Federal regulations since they are more important than state and local laws.  
TRUE FALSE
28. A property must include a detailed description of any physical or mental impairment affecting a resident in that residents file.  
TRUE FALSE
29. A leasing consultant should make a photocopy of any state ID before showing a rental unit to a prospect.  
TRUE FALSE
30. When a prospect comes to see an apartment with multiple children in tow, you should only show them larger apartment homes.  
TRUE FALSE



Need more? Would you like a list of resources in your area?

Feel free to contact me:

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